

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 69**

[WC Docket No. 05–25; RM–10593; DA 13–1909]

Special Access for Price Cap Local Exchange Carriers; AT&T Corporation Petition for Rulemaking To Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services

AGENCY: Federal Communications Commission.

ACTION: Final rule; clarification and modification.

SUMMARY: In this Report and Order, pursuant to authority delegated by the Commission in the *Special Access Data Collection Order* the Bureau clarifies the scope of the collection to reduce burden where doing so is consistent with our delegated authority and will not impact the Commission's ability to analyze the data; provides instructions and record format specifications for submitting information; and modifies and amends questions and definitions contained in the collection.

DATES: Effective December 9, 2013. The information collection and recordkeeping requirements contained in the *Special Access Data Collection Order*, 78 FR 2571, January 11, 2013, as implemented by this Report and Order, are not effective until the Office of Management and Budget approves them and the Commission has published a notice in the **Federal Register** announcing the effective date of the information collection.

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SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order in WC Docket No. 05–25, RM–10593, FCC 13–1909, released on September 18, 2013. This summary is based on the public redacted version of the document, the full text of which is available electronically via the Electronic Comment Filing System at <http://fjallfoss.fcc.gov/ecfs/> or may be downloaded at http://transition.fcc.gov/Daily_Releases/Daily_Business/2013/db0918/DA-13-1909A1.pdf. The full text of this document is also available for public inspection during regular business hours in the Commission's Reference Center, 445 12th Street SW., Room CY–A257, Washington, DC 20554. The complete text may be purchased

from Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554. To request alternate formats for persons with disabilities (e.g. Braille, large print, electronic files, audio format, etc.) or reasonable accommodations for filing comments (e.g. accessible format documents, sign language interpreters, CARTS, etc.), send an email to fcc504@fcc.gov or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice) or (202) 418–0432 (TTY).

Introduction

On December 11, 2012, the Commission adopted the *Special Access Data Collection Order*, requiring providers and purchasers of special access and certain entities providing “best efforts” service to submit data, information and documents for a comprehensive evaluation of competition in the special access market. In this Report and Order, we move forward in our efforts to review and ensure that our special access rules work to promote access, competition and investment by finalizing the comprehensive data collection. Specifically, pursuant to authority delegated by the Commission, we (1) clarify the scope of the collection to reduce burden where doing so is consistent with our delegated authority and will not impact the Commission's ability to analyze the data; (2) provide instructions and record format specifications for submitting information; and (3) modify and amend questions and definitions contained in the collection. We will subsequently issue a public notice announcing the deadline for submissions once approval for the collection is obtained as required by the Paperwork Reduction Act of 1995 (PRA) from the Office of Management and Budget (OMB).

Background

On August 15, 2012, the Commission suspended, on an interim basis, its rules allowing the grant of pricing flexibility for special access services in areas subject to price cap regulation. The Commission took this step based on “significant evidence that these rules, adopted in 1999, are not working as predicted, and widespread agreement across industry sectors that these rules fail to accurately reflect competition in today's special access markets.” To identify a replacement framework, the Commission detailed a plan to collect data and information for a robust market analysis to gauge actual and potential competition for special access services. There was ample support in the record

for “collecting additional data to inform our future actions.”

On December 18, 2012, the Commission released the *Special Access Data Collection Order*, outlining the data collection. Services covered by the collection include traditional special access service (including DS1s and DS3s), *Packet-Based Dedicated Service (PBDS)* such as Ethernet, and *Best Efforts Business Broadband Internet Access Service* to ensure a “clear picture of all competition in the marketplace.” Those required to respond to the data collection include *Providers* and *Purchasers* of special access services and certain entities providing *Best Efforts Business Broadband Internet Access Service*. The geographic and temporal scope includes data on a nationwide basis for areas where the *Incumbent Local Exchange Carrier (ILEC)* is subject to price cap regulation (i.e., price cap areas) with the majority of the data from calendar years 2010 and 2012.

The general categories of data and information identified by the Commission for collection are: Market structure, pricing, demand, terms and conditions, and competition and pricing decisions. Under each category, most of which would be collected from *Providers*, the Commission highlighted the types of data and information covered. For example, market structure included, among other things, data exclusively from *Providers* on facilities used to provide *Dedicated Service*, non-price factors affecting deployment, collocations, and network maps. The pricing information included data exclusively from *Providers* on the “quantities sold and prices charged for special access services, by circuit element” and required *ILECs* to “list the form of price regulation that applies . . . on a wire-center-by-wire-center basis.” The demand data included not only information on the bandwidth of special access sold and revenues earned by *Providers* but also on the expenditures made by *Purchasers*. The terms and conditions section called for information and data from both *Providers* and *Purchasers*, seeking details on topics such as the discounts and benefits associated with *Tariff* plans and the business rationale for those plans. The Commission also sought information on Requests for Proposals and advertised and marketed services to help evaluate competition and pricing decisions for special access services. Lastly, the Commission described the coverage area and price information it sought to collect from entities providing *Best Efforts Business Broadband Internet Access Service*. The

Commission provided an “initial version” of the questions and definitions for the collection as an appendix to the order.

The Commission plans to use the data collected for a one-time, multi-faceted market analysis. The analysis will evaluate “how the intensity of competition (or lack thereof), whether actual or potential, affects prices, controlling for all other factors that affect prices.” The analysis will include “econometrically sound panel regressions . . . of the prices for special access on characteristics such as (1) the number of facilities-based competitors (both actual and potential); (2) the availability of, pricing of, and demand for best efforts business broadband Internet access services; (3) the characteristics of the purchased service; and (4) other factors that influence the pricing decisions of special access providers, including cost determinants (e.g., density of sales) and factors that deliver economies of scale and scope (e.g., level of sales).” The Commission also plans to assess the reasonableness of terms and conditions offered by *ILECs* for special access service. Once the data are obtained and analyzed, the Commission will evaluate whether it is appropriate to make changes to its existing pricing flexibility rules to better target regulatory relief in competitive areas and evaluate whether remedies are appropriate to address any potentially unreasonable terms and conditions.

The Commission delegated authority to the Wireline Competition Bureau (Bureau) to implement the data collection. The Commission’s delegation gives the Bureau authority to: “(a) Draft instructions to the data collection and modify the data collection based on public feedback; (b) amend the data collection based on feedback received through the PRA process; (c) make corrections to the data collection to ensure it reflects the Commission’s needs as expressed in [the *Special Access Data Collection Order*]; . . . (d) issue Bureau-level orders and Public Notices specifying the production of specific types of data, specifying a collection mechanism (including necessary forms or formats), and set[] deadlines for response to ensure that data collections are complied with in a timely manner; and (e) take other such actions as are necessary to implement [the *Special Access Data Collection Order*] . . . consistent with the terms of [the *Special Access Data Collection Order*].”

After the release of the *Special Access Data Collection Order*, we received several requests for clarifications and changes to the initial version of the data

collection definitions and questions; received comments through the PRA process; and met with several potential respondents to discuss the data collection. We also reviewed the collection for improvements to achieve the robust analysis proposed in the *Special Access Data Collection FNPRM*. In this Report and Order, consistent with our delegated authority, we clarify the scope of the collection; provide instructions on how to respond to the data collection questions; and provide a list of all modifications and amendments to the data collection questions and definitions based on the feedback received and our further internal review.

Discussion

Clarifying the Scope of the Data Collection

As established by the *Special Access Data Collection Order*, *Providers* and *Purchasers* of special access services are required to respond to the data collection if they are subject to the Commission’s jurisdiction under the Communications Act of 1934, as amended. In addition, the Commission required entities providing *Best Efforts Business Broadband Internet Access Services* to respond unless they have fewer than 15,000 customers and fewer than 1,500 business broadband customers. The Commission limited the geographic scope of the collection to services provided and purchased in price cap territories.

We have received several questions about the scope of the data collection. Parties have asked: (1) Who is required to file; (2) whether entities in rate-of-return areas must respond; and (3) how the reference to FCC Form 477 (Form 477) filers reporting broadband connections in Section II.G of the data collection affects the pool of respondents. We address these questions below.

Purchasers Subject to the Commission’s Jurisdiction

The *Special Access Data Collection Order* stated that *Purchasers* of *Dedicated Service* must supply certain information as part of the data collection. A *Purchaser* is a *Competitive Provider* or an *End User*, which is defined as a “business, institutional, or government entity that purchases a communications service for its own purposes and does not resell such service.” In the collection, *Purchasers* are generally required to report their expenditures for *Dedicated Service* under *Tariff* and non-*Tariff* plans and provide details on the terms and

conditions associated with those plans. This information is useful in evaluating allegations of harmful, anticompetitive conduct and cross-checking the information reported by *Providers*.

The term *Purchasers* is broadly defined in the *Special Access Data Collection Order* to include “any entity subject to the Commission’s jurisdiction . . . that purchases special access services.” Read literally, that term encompasses a very broad range of entities that are consumers of *Dedicated Services* and, in that regard, are no different from consumers of *Dedicated Services* that are not subject to our jurisdiction. For example, a package delivery service that purchases a DS-1 to operate its business would be required to comply with the collection if it holds a private radio license for communications with its drivers (and is therefore “subject to the Commission’s jurisdiction”). But if instead of holding its own wireless license the same company purchases a commercial mobile radio service (CMRS) for those communications, and does not otherwise engage in an activity that would cause it to fall within the Commission’s jurisdiction, it would not be required to comply with the data collection. There are potentially hundreds of thousands of license and authorization holders, information service providers, or others that are “subject to the Commission’s jurisdiction” but otherwise are simply consumers of *Dedicated Services* and are unfamiliar with, and perhaps completely unaware of, the Commission’s requirements and proceedings involving the regulation of *ILECs* in price cap areas.

For several reasons, we do not believe the Commission intended to capture these consumers. First, including literally all entities subject to the Commission’s jurisdiction would result in the non-uniform treatment of certain consumer categories; responses from manufacturers, banks, or package delivery service providers that purchase *Dedicated Service* would turn on whether an entity in that category just happened to engage in an unrelated activity that subjects it to the Commission’s jurisdiction. Second, in describing the entities required to submit data in its Final Regulatory Flexibility Analysis (FRFA), the Commission noted that *Providers* and *Purchasers* required to respond may include “price cap regulated incumbent LECs, competitive LECs, interexchange carriers, cable operators, and companies that provide fixed wireless communications services” in addition to some entities providing “best efforts”

services. We believe this statement largely describes the categories of entities from which responses were anticipated by the Commission; this is also consistent with the Commission's estimated respondent pool of about 6,500—far fewer than the potentially hundreds of thousands of entities if the definition of *Purchasers* were interpreted more broadly. Third, defining *Purchasers* more broadly will not contribute substantially to the economic analysis. As proposed in the *Special Access Data Collection FNPRM*, the analysis of the collected data will rely more heavily on the data obtained from *Providers*, e.g., *Locations* served and prices charged at the circuit-level, than the limited information on terms and conditions obtained from *Purchasers*. Although the data obtained from *Purchasers* will help to identify harmful, anticompetitive conduct in the sale of *Dedicated Service*, it need not, and indeed cannot, be comprehensive to serve this purpose. Finally, these consumers of *Dedicated Service* are unlikely to respond with any additional information on terms and conditions that we would not otherwise obtain from a smaller respondent pool and so the benefit of having a broader array of *Purchasers* respond is outweighed by the burden. Clarifying the scope of *Purchaser* respondents is therefore appropriate.

Consistent with the Commission's overall intent, we clarify that the definition of *Purchasers* excludes from the collection entities that are subject to the Commission's jurisdiction only because they fall within one or more of the categories listed below. These exclusions do not apply to entities that hold licenses, authorizations or registrations under any other Part of the Commission's rules not listed below, or that provide a *Dedicated Service* or a *Best Efforts Business Broadband Internet Access Service* in a price cap area.

- *End Users* that provide an information service;
- Equipment authorization holders regulated under Parts 2 and 15 of the Commission's rules;
- Accounting authorization holders in the maritime and maritime mobile-satellite radio services regulated under Part 3 of the Commission's rules;
- Experimental radio authorization holders regulated under Part 5 of the Commission's rules;
- Commercial radio operators regulated under Part 13 of the Commission's rules;
- Antenna structure registration holders regulated under Part 17 of the Commission's rules;

- Television and radio broadcasters regulated under Part 73 of the Commission's rules;
- Holders of authorizations issued pursuant to Part 74 of the Commission's rules such as experimental radio, auxiliary, special broadcast and other program distribution service authorizations;
- Maritime service authorization holders regulated under Part 80 of the Commission's rules;
- Aviation service authorization holders regulated under Part 87 of the Commission's rules;
- Private land mobile radio service authorization holders regulated under Part 90 of the Commission's rules except for holders of authorizations under Part 90 for the provision of point-to-point fixed microwave services and authorizations in the Wireless Broadband Services frequency band, 3650–3700 MHz;
- Personal radio service authorization holders regulated under Part 95 of the Commission's rules; and
- Amateur radio service authorization holders regulated under Part 97 of the Commission's rules.

These exclusions only apply to the categorically excluded entity and do not extend to other entities within the same corporate structure or entities that are otherwise affiliated with the excluded entity. For example, if an entity holding a television broadcast authorization is affiliated with a cable company that provides *Dedicated Service*, the affiliated cable company must still respond to the data collection even though the television broadcasting entity is not required to respond. In addition, for clarity, we point out that these categorical exclusions do not include common carriers (wired or wireless), mobile wireless service providers, cable system operators even if they only provide video program services, international service providers, satellite service providers, or entities that hold authorizations issued by the Federal Communications Commission (FCC) for the provision of fixed point-to-point microwave services.

Price Cap Areas

The Commission is seeking data and information on the provision and purchase of services in price cap areas “[b]ecause the focus of this proceeding is on the regulation of special access services in price-cap territories.” While certain language in the *Special Access Data Collection Order* has led to confusion on whether carriers in rate-of-return areas must respond, we clarify that entities providing or purchasing *Dedicated Service* only in areas where

the *ILEC* is subject to interstate rate-of-return regulation are not required to provide data and information in response to the data collection. Likewise, we clarify that an entity providing *Best Efforts Business Broadband Internet Access Service* only in areas where the *ILEC* is subject to interstate rate-of-return regulation is not required to submit data in response. A map depicting the study areas where the *ILECs* are subject to price cap and rate-of-return regulation is available on the Commission's Web site; the map will assist entities in determining whether or not they are providing or purchasing services in price cap areas. In addition, we recognize that over the years some *ILECs* have converted to price cap regulation and further clarify that the data collection covers *Dedicated Service* provided or purchased and *Best Efforts Business Broadband Internet Access Service* provided if the *ILEC* was subject to price cap regulation in the area at any point during the relevant reporting periods, 2010 or 2012.

FCC Form 477 Filers Reporting Broadband Connections

In delegating authority to the Bureau, the Commission noted that “[t]he delegation includes the authority to require entities subject to the Commission's jurisdiction to certify whether or not they are special access providers, entities that provide best efforts business services, or purchasers for the purposes of this data collection.” In Section II.G of the initial version of the data collection attached to the *Special Access Data Collection Order*, the Commission stated that “[i]f you must respond to this data collection because you filed the FCC Form 477 in 2012 to report the provision of ‘broadband connections to end user locations’ but are not covered by the scope of the collection ‘then indicate as such . . . and complete the certification accompanying this data collection.’”

Smith Bagley *et al.* in their joint comments to the Commission as part of the PRA process highlighted the reference to the Form 477 in Section II.G and requested a clarification as to which entities must submit data and which entities must only certify that they are not required to submit data and information in response to the collection. We therefore clarify that all entities required to submit the Form 477 because they provide broadband connections to end user locations in price cap areas must—at a minimum—submit a certification in this special access data collection. Specifically, entities required to report broadband connections to end user locations on the

Form 477 must certify whether they are a *Provider*, *Purchaser*, a covered entity providing *Best Efforts Business Broadband Internet Access Service*, or none of the above as part of this data collection. If the Form 477 filer is also a *Provider*, *Purchaser*, or a covered entity providing *Best Efforts Business Broadband Internet Access Service* as defined in this collection, then it must also respond to all the relevant questions for that category of entity. If the Form 477 filer does not fall within any of those categories, e.g., an entity only providing *Best Efforts Business Broadband Internet Access Service* in interstate rate-of-return areas and not purchasing *Dedicated Service*, then the Form 477 filer need not submit any information or data beyond its certification.

The intent of this certification is to ensure the subsequent market analysis of the collected data comprehensively includes all *Providers* with *Connections* to *Locations* that are owned, leased under an *Indefeasible Right of Use (IRU)* agreement, or in the case of *Competitive Providers*, obtained as an *Unbundled Network Element (UNE)* to provide a *Dedicated Service*, and covered entities providing *Best Efforts Business Broadband Internet Access Service*. We estimate that most, if not all, of these *Providers* and covered entities providing “best efforts” services are required to file the Form 477 based on that form’s reporting criteria. Therefore, we can use the list of Form 477 filers as a point of reference to ensure that appropriate *Providers* respond to the collection. For example, if an entity filed the Form 477 but did not respond to the collection, there is a strong likelihood it has data and information relevant to the collection. Moreover, to the extent Form 477 filers not covered by the scope of the collection have to certify as such, this burden is minimal. Thus, the Form 477 certification requirement furthers the Commission’s goal of conducting a comprehensive data collection in a minimally burdensome way.

Instructions—Data Specifications

Attached to this Report and Order is a comprehensive set of instructions with format specifications for responding to the data collection. These instructions address many requests for clarification received from parties since the release of the *Special Access Data Collection Order*. The more significant clarifications contained in the instructions are discussed below.

1. Locations With Connections

Providers are required to report *Locations* with *Connections* to help the

Commission identify: (1) Facilities that can, or could, be used to provide a *Dedicated Service*; and (2) the demand for *Dedicated Service*. Regardless of what market analysis we adopt, this information is critical in determining how and where competition for special access services exists or is likely to develop.

A *Connection* is defined as a communication path between a *Location* and a *Provider’s* network that provides a *Dedicated Service* or is “capable” of providing a *Dedicated Service*. By design, only *Connections* to non-residential *Locations* are reported. Special access services are used by businesses, schools, libraries, and other institutions of state and local government. Including facilities and services provided to residences will not help, and may distort, our analysis of the special access market. Therefore, *Providers* do not report *Connections* to residential locations.

We have received several questions about the meaning of “capable” within the definition of *Connection* for purposes of the data collection. In response, we provide the following guidance on what *Locations* with *Connections* to report, which varies depending on the *Provider* type.

Guidance on Capable Connections for Competitive Providers

Non-Cable Competitive Providers. *Competitive Providers* other than cable system operators must report all *Locations* with idle and in-service *Connections* that they own or lease as an *IRU*, regardless of the type of service provided over the *Connection*. This subcategory of *Competitive Providers* must report all of their *Connections* because these entities typically target their service offerings to businesses and other higher-capacity users where sufficient demand exists to justify the investment. They do not typically deploy their facilities (or lease *IRUs*) to blanket an entire area and instead deploy (or lease *IRUs*) to particular *Locations* within a local geographic area. That is, they are likely to only have built such *Connections* to a particular *Location* based on strong expectations of sufficient demand. Both the information about the facilities and the demand leading to the deployment of those facilities are relevant to our analysis.

In addition, *Competitive Providers* must report *Locations* with *Connections* obtained as a *UNE* to provide a *Dedicated Service*. This includes those *UNEs* obtained to provide a service that incorporates a *Dedicated Service* within the offering as part of a managed solution or bundle of services sold to

the customer. Examples of services incorporating a *Dedicated Service* could include: The Converged Business Network solution offered by Level 3 Communications, Inc. (Level 3); the High-Speed Dedicated Internet Access service from XO Communications, LLC (XO); or the business Ethernet solution offered by TW Telecom. This information will further help us identify the demand for special access service.

Competitive Providers Who Are Cable System Operators. Outside their Franchise Areas (FAs), cable operators must follow the same reporting guidance on all *Locations* with *Connections*, for the same reasons, as the non-cable *Competitive Providers* described above. However, we require cable system operators to report *Locations* in their FAs with *Connections* they own or lease as an *IRU* differently.

Cable system operators within their FAs report *Locations* based on the type of *Connection*. They must report those *Locations* with *Connections* owned or leased as an *IRU* that are connected to a *Node* (i.e., headend) that has been upgraded or was built to provide Metro Ethernet (or its equivalent) service. They must report *Locations* with these *Connections* regardless of the service provided over the *Connection* or whether the *Connection* is idle or in-service. Historically, cable companies deployed facilities widely in their FAs to serve primarily residential customers and other community needs, and have more recently expanded their service offerings to customers that are likely to buy *Dedicated Service*. We are therefore particularly interested in *Connections* that have been upgraded to business class Metro Ethernet (or its equivalent)—whether or not those *Connections* are in service and regardless of the type of service provided—because it is reasonable to assume that such upgrades were made based on strong expectations as to the likelihood of sufficient demand for *Dedicated Service* and are sources of potential competition.

For *Locations* with facilities that are not linked to a *Node* capable of providing Metro Ethernet (or its equivalent), cable system operators must report in-service *Connections* that were used during the relevant reporting period to provide a *Dedicated Service* or a service that incorporates a *Dedicated Service* within the offering as part of a managed solution or bundle of services sold to the customer. Cable system operators do not report *Locations* with facilities used to provide a service that is substantially similar to the services provided to residential customers, e.g., one or two line telephone service or

best-efforts Internet access and subscription television services. We exclude these facilities because they were most likely built to provide residential-type services instead of high-capacity services to non-residential customers based on the historical deployment of cable systems; their inclusion could thus skew our assessment of demand for special access service. We can still account for the potential competition from these facilities by referencing data provided elsewhere in the collection, *e.g.*, we can refer to the fiber maps filed by cable system operators, the location of *Nodes* upgraded to provide Metro Ethernet (or its equivalent), and the information provided showing those census blocks within the FAs where the cable system operator reports making broadband service available with a bandwidth rate of at least 1.5 Mbps in both directions (upstream/downstream). Accordingly, this clarification will aid the Commission by focusing the collection on *Locations* with *Connections* relevant to our inquiry, thus aiding the analysis, and has the benefit of reducing the reporting burden for cable system operators.

Guidance on Capable Connections for ILECs

In addition to the guidance provided to *Competitive Providers* on the meaning of “capable” for the reporting of *Locations* with *Connections*, we provide *ILECs* with this additional clarification. *ILECs* are not required to report copper loops that were unable to provide a bandwidth connection of at least 1.5 Mbps in both directions (upstream/downstream) “as provisioned” during the relevant reporting periods, *e.g.*, bare copper loops not upgraded with the necessary equipment. These copper loops are not considered *Connections* capable of providing a *Dedicated Service* for the purposes of this data collection. This clarification addresses a concern raised by Verizon on their inability “to distinguish between UNEs that CLECs use to serve mass-market locations and those that they use to serve business locations.”

We are collecting data to analyze the special access market to help inform our analysis of the appropriate regulatory treatment of special access services. Special access services subject to dominant carrier regulation largely consist of *DS1s* and *DS3s*, which have a symmetrical bandwidth of about 1.5 Mbps and 44 Mbps, respectively. Therefore, for the collection, we do not intend to collect data from *ILECs* on copper loops that “as provisioned” are

unable to provide a bandwidth of at least 1.5 Mbps in both directions.

This exclusion will significantly decrease the reporting burden for *ILECs* while not adversely affecting our analysis. Information on each and every copper loop an *ILEC* has with a bandwidth of less than 1.5 Mbps in both directions is unnecessary for the Commission to assess potential competition. We can instead assume that the *ILEC* has deployed facilities of some kind throughout its study area and has at least one transmission link, albeit a bare copper loop, to every *Location* within its study area even when the *ILEC* does not report having a *Location* with a *Connection*. We do recognize, however, that copper loops can be modified to provide higher capacity services and will continue to collect information from *Competitive Providers* on the loops they obtain as *UNEs* and later modify to provide a bandwidth connection of at least 1.5 Mbps in both directions.

In addition to excluding certain copper loops, *ILECs* are prohibited from reporting facilities to *Locations* used to provide services substantially similar to the services provided to residential customers, *e.g.*, one or two line telephone service or best-efforts Internet access and subscription television services such as AT&T’s U-verse or Verizon’s FiOS service (even if the facility is technically capable of providing a *Dedicated Service*). This exclusion is again aimed at limiting the data reported to only *Locations* where the *End Users* are demanding services relevant to our inquiry (*i.e.*, buying *Dedicated Services*). In these areas, as with the exclusion for certain copper loops, we can assume that the *ILEC* has a capable facility connecting every *Location* in its study area even when it did not provide a *Dedicated Service* to the *Location* during the relevant reporting period.

Location Data

Several parties are concerned about the *Location* information sought in the data collection, namely the requirement that the *Provider* (1) indicate whether the connected *Location* is a building, cell site, or other man-made structure, *i.e.*, reporting the location type and (2) report the geocode (latitude and longitude) for each *Location*. On location type, Comcast and Cox said “that they do not necessarily know or record the type of structure . . . and that recreating such data (*e.g.*, through site visits or requests to the customer) could be quite a burdensome exercise.” In addition, Alaska Communications Systems (ACS), Cincinnati Bell Inc.

(Cincinnati Bell), and members of the American Cable Association (ACA) reported difficulty with determining not only the location type but also the geocode.

In response, we clarify in the instructions that if the filer does not know the location type, it can report the type as “unknown.” While we intend to use the location type to further understand the demand segments for *Dedicated Services*, we can utilize information reported elsewhere in the collection for this purpose. Therefore, while this clarification will significantly reduce the reporting burden on *Providers*, it will not adversely affect the Commission’s analysis. As for the location geocode, we understand that *Providers* are more likely to have coordinate information for connected cell sites than for connected buildings. *Providers* do typically have, however, at least the street address for a connected building. We therefore clarify in the instructions that *Providers* can report a location geocode derived from a postal address through use of a geocoding platform. This clarification will significantly reduce the reporting burden by eliminating the need for site visits to obtain coordinate information.

Mapping Requirements

The *Special Access Data Collection Order* required *Competitive Providers* to file maps showing: (1) The fiber routes constituting their network and connecting their networks to *Locations*; and (2) the *Nodes* used to interconnect with other providers and the year each *Node* went live. The maps showing fiber routes help the Commission identify where *Competitive Providers* can or potentially could provide *Dedicated Service*. The location of the interconnection *Nodes* helps the Commission understand the “non-price factors that may impact where special access providers build facilities or expand their network via UNEs.”

Several parties raised concerns about the burden of producing maps and verifying interconnection *Nodes*. Cable companies, for example, stated they do not keep maps at this level of detail in the normal course of business and would have to conduct site visits and create them at considerable expense. NTCA also expressed concern explaining that while its members generally have maps showing “middle-mile” facilities, they do not keep maps with “last mile” facilities.

NCTA and ACA alternatively propose that the Commission: (1) Allow companies to simply submit whatever network maps they have or “a list or ‘airline’ map showing the network

footprint (headend locations and customer locations served by those headends)” and (2) eliminate the *Node* identification requirements. USTelecom opposes this proposal, arguing this alternative will not provide the Commission with the necessary detail “to determine how both actual and potential competition provide competitive discipline in the high-capacity marketplace.” As discussed below, although we do not eliminate the obligations as proposed by NCTA and ACA, we do make certain clarifications to reduce the burdens while ensuring the Commission has sufficient data for its analysis.

Fiber Maps. The Commission required *Competitive Providers* to submit maps showing their fiber routes, including fiber *Connections* to *Locations*, for an analysis of potential competition. While we understand the burdens of providing these comprehensive maps, the Commission has found that competition for *Dedicated Service* “appears to occur at a very granular level—perhaps as low as the building/tower.” The Commission therefore needs to collect information at an equally granular level, *i.e.*, the level of the connected *Location*.

The mapping obligation is already limited by focusing solely on fiber routes and not requiring the mapping of other transmission mediums. Relative to copper or coaxial cable, a *Competitive Provider* can easily add additional *Dedicated Services* or other managed services to a fiber line. The presence of fiber down a street is thus a good indicator of a *Competitive Provider's* ability to serve nearby *Locations*. To further reduce the burdens, we clarify in the instructions that the scale used for shapefile mapping data is 1:24,000, which is the standard used by the U.S. Geological Survey National Map and the same scale used by the Bureau for the study area boundary (SAB) map collection. This standard will give the Commission sufficient data on the streets and paths traversed by fiber while eliminating the need to report the exact location of fiber on the street. We expect that *Competitive Providers* would know the streets and routes where their fiber runs without having to conduct site surveys so this clarification should significantly reduce the reporting burden for *Competitive Providers* while still giving the Commission data on fiber routes to a sufficient level of accuracy for its analysis.

We reject the alternative proposed by NCTA and ACA of requiring “whatever network maps” a *Competitive Provider* has or “a list or ‘airline’ map showing a network footprint” for two reasons.

First, this approach will produce non-uniform and less granular data and will thus affect the Commission’s analysis. Maps would vary by respondent with some simply showing the boundaries of their network coverage and others providing details on some fiber routes but unlikely to the level of the connected *Location*. Even a “list or ‘airline’ map showing the network footprint” would not necessarily give the Commission the fiber routes to *Locations*, at least not to a sufficient level of accuracy. Second, the variability of the maps would substantially increase the burden on Commission staff. For example, the Commission would have to create a base map from the non-uniform data and offset gaps with information collected elsewhere or through third-party data sets. Even if the Commission could somehow fill any data gaps, the result would not be as detailed, uniform, or accurate as with having *Competitive Providers* submit maps showing their fiber facilities to each *Location*. It would also divert Commission resources from analyzing the data to create data necessary to begin the analysis.

Nodes. NCTA and ACA have also asked the Commission to eliminate the requirement to include *Nodes* used for interconnecting. One NCTA member said it “cannot reasonably identify every node on the network used to interconnect . . . and the year that each node ‘went live,’” asserting that it “would have to walk portions of the route to check for all splice points and/or interview local personnel” to determine the location of interconnecting *Nodes*. An ACA member stated it would have to review many end user agreements to determine this information, while another member stated that reporting the “live” date for each interconnecting *Node* is “the most difficult and time-consuming aspect of creating the maps.”

Although we retain the requirement to provide fiber maps, we clarify the obligations for identifying interconnection *Nodes* in the instructions to reduce burdens. First, we clarify that *Competitive Providers* can provide information reported to the Central Location Online Entry System (CLONES) database on their interconnection points in lieu of reporting information from their own internal records. *Competitive Providers* electing this option must certify that their CLONES data are current and accurately identify their points of interconnection and the associated “live” dates to the best of their knowledge. Second, we clarify in the instructions that *Node* locations need

only be accurate to the nearest ± 0.0005 decimal degrees. Third, respondents do not have to report the year the *Node* went “live” if it occurred before 1995 and is unknown.

These clarifications will not adversely affect the data needed for the Commission’s analysis but will reduce burdens. The Commission intends to gather data on interconnection points to understand whether the decision to deploy in an area is in response to the demand for *Dedicated Service*. Based on the responses received from non-cable *Competitive Providers* to an earlier voluntary data request, we believe the deployment and interconnecting decisions of non-cable *Competitive Providers* are largely driven by the demand for high-capacity, business services. The reporting of interconnection points by these entities is thus valuable to the Commission.

The CLONES database is widely used by industry to create, update, and maintain codes to uniquely identify the location of geographic places and certain equipment. It also contains historical data on interconnection points as reported by the service providers. *Competitive Providers* can therefore provide the information reported to CLONES without affecting the analysis provided they certify to the best of their knowledge that the data accurately reflect their interconnecting points and “live” dates.

As for the location accuracy level for those *Nodes* identified, the Commission needs to know the neighborhood of the interconnection point. Clarifying the accuracy level for *Nodes* to the nearest ± 0.0005 decimal degrees accomplishes this. In addition, reporting the year a *Node* went “live” going as far back as 1995 will help the Commission understand decisions to deploy facilities to meet the demand for *Dedicated Service*. After 1995, significant competitive entry and merger activity occurred following the enactment of the Telecommunications Act of 1996. This timeframe will capture that activity along with those headends recently upgraded by cable operators to provide Metro Ethernet (or its equivalent) service. Accordingly, we will not adversely affect the Commission’s analysis by allowing respondents to only report “live” dates prior to 1995 if available.

These clarifications will ease the reporting burden for *Competitive Providers* while ensuring that the Commission has sufficient data for its analysis. Entities do not always retain historical data on interconnection points, so allowing for the submission of CLONES data and for the reporting of

“live” dates prior to 1995 only if available will ease the burden on these respondents. These clarifications will also reduce, or completely eliminate, the need to conduct walkouts or surveys at the street or manhole level.

Billing Information

The collection contains a section of questions asking for data on the *Dedicated Services* billed to customers by *Competitive Providers* and *ILECs*. The billing section consists of three interrelated questions: (1) Reporting monthly billing information, billed at the level of the rate element, but tied to the circuit; (2) identifying adjustment codes; and (3) identifying billing codes. In addition to making minor revisions to the billing questions—discussed in Section III.C below, the instructions contain a detailed breakdown of how to interpret and respond to each required data field for these questions. The instructions address many of the requests for clarification on what is required. For example, some parties interpreted the ILEC-centric diagram of billed circuit elements contained in Question II.A.14 as a mandatory method of assigning billing codes. As clarified in the instructions, there are two options for describing billing codes for circuit elements. A filer can either use the diagram and descriptions provided to describe the billed circuit element or create its own descriptions for the billed elements, e.g., a party could assign a billing code to a circuit element described as “private line end-to-end service.” Parties also questioned whether they can use Uniform Service Order Codes (USOCs) for their unique billing code IDs. The instructions clarify that providers can use any unique billing code, including USOCs. These and other clarifications are provided in the instructions.

Headquarters Information

Question II.A.9 asks *Competitive Providers* to report the locations of their U.S. headquarters and the headquarters of certain affiliates, going as far back as 1995. NCTA questions the need for this information and asks the Commission to eliminate this requirement or limit the years covered to 2010 and 2012.

Like the data sought on interconnection points, the purpose of this question is to assess certain non-price factors that may be relevant to where *Competitive Providers* build or expand their network. The question asks for the locations of a *Competitive Provider's* current and prior U.S. headquarters, going as far back as 1995. In addition, *Competitive Providers* must identify the headquarters of affiliated

entities and entities acquired through merger that no longer exist if the affiliated or acquired entity owned (or leased under an *IRU* agreement) *Connections* to five or more *Locations* in a given *MSA* at the time of affiliation/acquisition, going as far back as 1995. We use 1995 as the cutoff because significant competitive entry and merger activity occurred after 1995. The longer period thus helps us understand why a competitor chose to expand its facilities in certain areas over time.

For certain *Competitive Providers*, namely cable system operators, the decision of where to deploy *Dedicated Service* facilities is significantly influenced by the FAs awarded to the cable operator, which are often unrelated to the location of its headquarters. For example, the headquarters for Cox, the third largest cable provider in the United States, is located in Atlanta but Cox has no cable network in that metropolitan area. In addition, cable operators have only recently upgraded systems in their FAs to provide *Dedicated Service*. With this in mind, we question the benefits of obtaining information on headquarters going as far back as 1995 from cable companies because while this question is not particularly burdensome, it is unlikely to help us understand why a cable company deployed facilities in an area to provide *Dedicated Service*. We will therefore allow cable operators to respond to this question by indicating “Not Applicable.”

The rationale for treating cable system operators differently does not apply, however, to other *Competitive Providers* who do not deploy facilities according to designated FAs. We therefore continue to find value and intend to collect headquarters information from non-cable *Competitive Providers* for the analysis.

Certain Questions Requiring Narrative Responses From Purchasers

The data collection requires *Purchasers* to provide a narrative response to certain questions. For example, Questions II.F.8–10 and 12 ask for information about any problems experienced with terms and conditions, switching of *Providers*, or having to pay *One Month Term Only Rates*. Smith Bagley *et al.* objects to the mandatory submission of this “qualitative” information because it is not quantitative or verifiable and asks for the voluntary submission of responses to these types of questions.

Questions II.F.8–10 and 12 give *Purchasers* an opportunity to provide factual details to highlight any problems experienced in their dealings with

Providers of Dedicated Service. The Commission plans to use the information to help identify and document problems previously alleged by *Competitive Providers* in this proceeding. While these questions are not particularly burdensome, and are instead an opportunity, we have clarified in the instructions that if a *Purchaser* does not need, or want, to provide a response, i.e., the *Purchaser* is not experiencing or does not want to highlight any alleged problems, then the *Purchaser* can simply respond stating as much.

Modifications and Amendments to the Data Collection

The following is a list of the modifications and amendments to the data collection definitions and questions based on the received feedback and our further internal review. These changes are consistent with the terms of the *Special Access Data Collection Order*.

- *Affiliated Company*. Definition revised to include not only affiliations with *Providers* but also *Purchasers*. This revision will assist the Commission with internally linking information on sales and purchases reported by filers to entities that have common ownership. In addition, we have changed the ownership interest for determining an affiliation from 25 to 10 percent. Use of the lower percentage is consistent with the definition of affiliate used for the Form 499–A “Telecommunications Reporting Worksheet,” which is based on the statutory definition of “affiliate” in Section 153(2) of the Communications Act of 1934, as amended.

- *Best Efforts Business Broadband Internet Access Service*. Term modified to clarify that only best efforts services with a minimum advertised bandwidth connection of at least 1.5 Mbps in both directions (upstream/downstream) must be reported. The addition of “advertised bandwidth” also provides a clearer standard for respondents than the prior language that suggested an actual capacity, which could vary depending on case-specific variables such as time of day, traffic congestion, etc.

- *Circuit-Based Dedicated Service (CBDS)*. Term modified to clarify the Commission’s intent of only capturing those categories of time-division multiplexing-based services, such as DS1s and DS3s, which largely remain subject to dominant carrier regulation.

- *Collocation*. Definition deleted because the term is not used in the data collection.

- *Connection*. We modified the definition to eliminate potential

confusion over the reference to “end user’s location,” which was a combination of two defined terms, *End User* and *Location*. As modified, the term now drops the modifier “*End User’s*” and just references *Location*, which is already defined as a point where the *End User* is connected. We have also changed subsequent references to end user location in the collection to *Location*. In addition, consistent with our clarification of “capable” *Connections* in the instructions, we have modified the definition to clarify that an *Unbundled Copper Loop* is only considered a *Connection* once modified to provide a *Dedicated Service*.’’

- *Dedicated Service*. Changed reference in definition from megabytes to megabits. In addition, we clarified that the minimum bandwidth rate of 1.5 Mbps applies in both directions, upstream and downstream.

- *End User*. Revised this term to include not just entities that purchase *Dedicated Service* for their own use and not for resale but also entities that more broadly purchase communications services for their own use and not for resale.

- *Indefeasible Right of Use (IRU)*. The definition for this term previously included a list of elements typically found in IRU agreements, including a substantial upfront fee, a minimum term of ten years and no unreasonable limit on the grantee’s right to use the asset. The definition gave respondents considerable discretion to determine whether a lease is an *IRU* agreement. Sprint is concerned the definition will result in the over inclusion of contracts that are effectively service level agreements but called IRUs by the parties. Conversely, AT&T said the term could be read to exclude IRUs with shorter terms and with upfront payments of less than 25 percent.

The definition is intended to capture facilities where the grantee effectively has an ownership interest in the *Connection* and has the right to use the asset for an extended period of time to provide a competitive service of its choosing. While IRUs of less than ten years in total duration and with minimal upfront payments may indeed exist, for purposes of our analysis of facilities-based competition, we will focus on *IRUs* with a total term of at least ten years where the grantee has a right to access and exclusively use the *Connection* absent unreasonable limits. We have modified the definition as suggested by AT&T to clarify that the duration period of the *IRU* agreement need not equal the remaining economic life of the asset.

- *Packet-Based Dedicated Service (PBDS)*. Modified this definition to capture those types of services for which the Commission has largely granted relief from dominant carrier regulation.

- *Prior Purchase-Based Commitment*. Term revised to include commitments based on a dollar amount of revenues in addition to a percentage of revenues.

- *Revenues*. Deleted second sentence in definition to eliminate confusion over the billed revenue amounts to report.

- *Tariff*. Revised definition to clarify that term broadly includes both *Tariff Plans* and *Contract-Based Tariffs*.

- *Transport Service*. Definition revised to clarify intent of including dedicated transport and special access services other than *End User Channel Terminations*.

- *Question II.A.1: Affiliated Company*. Expanded the types of affiliated entities reported to *Providers* and *Purchasers*, not just *Providers*, to internally track commonly-owned entities and rephrased question to simplify electronic filing, *i.e.*, deleted yes/no response.

- *Questions II.A.3–4: Locations Data for Competitive Providers*. Consistent with our guidance on capable *Connections* in Section III.B.1.a of this Report and Order, we revised these questions to include not only facilities in-use, *i.e.*, provisioned *Connections* to *Locations*, but also idle *Connections* to capture data on potential competition. In addition, to match the reported month-to-month billing information, filers will report connected *Locations* during 2010 and 2012 instead of *Locations* as of year-end. The wording of Question II.A.3 is also changed to clarify that *Competitive Providers* need only report *Locations* with *Connections* in total and not separately by the enumerated categories. We also added Question II.A.4.k to obtain the total bandwidth provided over the *Connection* for the respondents’ own internal use or the internal use of an *Affiliated Company*. This last piece of information will help us evaluate whether *Competitive Providers* are self-providing service as an alternative to buying *Dedicated Service*.

- *Question II.A.5: Fiber Network Map(s)*. We received inquiries from parties requesting clarification of the mapping question requirements and have revised the question to only require a single map showing the fiber routes of a *Competitive Provider’s* network that are owned or leased under an *IRU* agreement.

- *Question II.A.8: Business Rules for Deployment*. Clarified question to remove ambiguities and to help develop

competition proxy variables for the Commission’s econometric analysis.

- *Question II.A.9: Headquarters*. As mentioned in Section III.B.5 above, question revised to facilitate responses for proxy variables for competition, *i.e.*, filers must now also report the headquarters of entities acquired through merger where the filer or its subsidiary was the surviving entity.

- *Questions II.A.12–14: Billing Information from Competitive Providers*. Based on feedback, we revised these questions so they now refer to circuit element instead of rate element. Question II.A.12 is also amended to require the reporting of the customer’s name in addition to the Form 499–A Filer ID, where applicable, or other unique identifier (ID), and Question II.A.13 is amended to require the reporting of a unique ID to link adjustments to a particular *Tariff* or contract. These changes to Questions II.A.12–13 will help the Commission identify and internally track purchases by commonly-owned customers and link billing adjustments to particular plans. Lastly, we added a new Question II.A.12.l to capture the per unit charge for the circuit element in addition to the total billed amount; modified former Question II.A.12.l to remove redundant language; and deleted the requirement to report whether the circuit element is owned or leased as an *IRU* in former Question II.A.12.o to address concerns over differentiating between owned and leased facilities.

- *Question II.A.19: Justification for Term and Volume Commitments*. Question amended to include *Tariffs* and agreements in effect with a customer, in addition to those offered.

- *Question II.B.1: Affiliated Company*. As with the parallel question for *Competitive Providers*, we expanded the types of affiliated entities reported to *Providers* and *Purchasers*, not just *Providers*, to assist with the internal tracking of commonly owned entities and modified the phrasing of this question to simplify electronic filing, *i.e.*, deleted the yes/no response.

- *Questions II.B.2–3: Locations Data for ILECs*. We revised these questions to eliminate the reporting of *Connections* sold as an *Unbundled Copper Loop* by the *ILEC*. As explained in Section III.B.1.b of this Report and Order, we do not intend to collect data on copper loops with a bandwidth of less than 1.5 Mbps. If a *Competitive Provider* has obtained an *Unbundled Copper Loop* from the *ILEC* as a *UNE* and modified the loop to provide a *Dedicated Service*, we will get that data directly from the *Competitive Provider*. This change will

greatly reduce the reporting burden for *ILECs*.

In addition, like the *Competitive Provider* questions on connected *Locations*, we have revised these questions to require the reporting of *Locations* connected during 2010 and 2012 instead of *Locations* as of year-end; this change is necessary to match the reported month-to-month billing information. Question II.B.2, similar to its counterpart question for *Competitive Providers*, is clarified so that *ILECs* report *Locations* in total and not separately by the enumerated categories.

- **Question II.B.4–6: Billing Information from ILECs.** Similar to the questions on billing for *Competitive Providers*, we revised these questions based on feedback to reference circuit element instead of rate element. In addition, we made the following changes: (1) Amended Question II.B.4.b to require the reporting of the customer's name to identify and internally track purchases by commonly-owned customers; (2) removed the reference to *Unbundled Copper Loops* in Question II.B.4 because *Locations* connected with *Unbundled Copper Loops* are no longer reported by *ILECs*; (3) revised Question II.B.5.g–h to refer to “contract or *Tariff*” and not just contract; (4) deleted references to accuracy levels in Question II.B.4.h–k; (5) added a new Question II.B.4.t to capture the per unit charge for the circuit element in addition to the total billed amount; (6) modified former Question II.B.4.t to remove redundant language; (7) deleted former Question II.B.4.w because a revenue commitment is included in the definition of *Volume Commitment* referenced in a subsequent part of this question; (8) deleted the requirement to report whether the circuit element is owned or leased as an *IRU* in II.B.4.y; and (9) deleted former II.B.4.aa because the burden outweighed the benefit of linking the billing information for a circuit to a particular tariff name and section number.

- **Question II.B.12: All Tariffs.** Deleted “available” from the initial sentence to capture not only available tariffs but also tariffs currently in effect for the purchase of *DS1*, *DS3*, and *PBDS* services; this change enables us to obtain information on all *Tariffs* that are currently used, or could be used, to purchase *Dedicated Service* from *ILECs*. We amended Question II.B.12.g to obtain additional information on the geographic areas covered by the identified plans to help the Commission differentiate between urban and rural areas. Added new Question II.B.12.k–l to indicate whether purchases in areas where pricing flexibility has been

granted count towards meeting a *Volume Commitment*. Added new Question II.B.12.n to indicate whether tariffed purchases of *PBDS* count towards meeting a *Volume Commitment*. Revised former Question II.B.12.n (now Question II.B.12.q) to only require the reporting of *Revenues* in total and not separately by additional categories, and deleted former Question II.B.12.o–p because the burden of reporting outweighed the potential benefit of collecting the information. Lastly, we amended former Question II.B.12.r (now Question II.B.12.s) to address concerns raised by Level 3 about plans that effectively contain *Prior Purchase-Based Commitments* without explicitly containing such provisions.

- **Question II.B.13: Non-Tariffed Agreements.** Rephrased language to simplify electronic filing, *i.e.*, eliminated the need for a yes/no response.

- **Question II.C.1–2: Entities Providing Best Efforts Services.** Condensed Questions II.C.1–2 into one question and rephrased so that only covered entities, *i.e.*, those not exempted, must answer. Modified former Question II.C.2.c.ii and d.ii to require reporting for areas where service is offered, instead of where service is provided. This is consistent with how data are reported for the State Broadband Initiative (SBI) program.

- **Question II.D.3: Procedures when Changing Transport Providers.** We are deleting this question and will instead rely on information obtained from similar questions directed at *Purchasers* and follow-up as necessary with *Providers* based on those responses.

- **Sections II.E–F: Questions for Purchasers.** To differentiate information from *Purchasers* that are mobile wireless service providers from other *Purchasers*, we have duplicated Questions II.F.2–14 and added them to Section II.E. *Purchasers* that are mobile wireless service providers will now only answer the questions on purchases in Section II.E. All other *Purchasers* will answer the questions in Section II.F.

- **Question II.E.2: Cell Site Locations.** Revised Question II.E.2.g–h to clarify that the total bandwidth is reported.

- **Questions II.F.3–4 (II.E.4–5):** Added subpart asking *Purchasers* to identify the percentage of expenditures made pursuant to purchases under a *Tariff* in 2012 that were subject to a *Term Commitment* of five or more years. This will help us gauge the scope of expenditures tied to longer-term plans.

- **Question II.F.8 (II.E.9): Terms and Conditions Constraints.** As suggested by parties, we clarified this question to give

Purchasers an opportunity to highlight alleged problems with terms and conditions not otherwise captured by the collection.

- **Question II.F.9 (II.E.10): Changing Transport Providers.** Revised language to clarify intent of obtaining information in those instances where a *Purchaser* buys both *Transport Service* and *End User Channel Terminations* from one *Provider* and then subsequently switches *Transport Providers* while continuing to purchase the “last-mile” facilities from the original *Provider*.

- **Question II.F.10 (II.E.11): Purchases Solely for the Purpose of Meeting a Prior Purchase-Based Commitment.** Modified language to cover purchases that would not have been made but for the commitment instead of purchases not utilized to meet a commitment. We further amended the question to obtain additional details on such purchases where applicable.

- **Question II.F.11 (II.E.12): Switching Providers.** Modified question based on feedback from parties asking about the scope of the question.

- **Question II.F.13 (II.E.14): Tariffs under which you Purchase Service.** Deleted “available” from the initial sentence to capture all *Tariffs* used by the *Purchaser* to obtain *DS1*, *DS3*, and *PBDS* services; made minor improvements to the language in subparts (k.ii), (m.ii), (n.ii), and (o.ii) as to the geographic areas identified and added the reporting of the *Provider's* name; and separated subpart (m) into two questions—one for purchases in areas where the Commission has granted *Phase I Pricing Flexibility* and the other for *Phase II Pricing Flexibility* areas.

- **Question II.F.14 (II.E.15): Non-Tariffed Agreements.** Rephrased language to simplify electronic filing, *i.e.*, eliminated the need for a yes/no response.

- **Question II.G.1:** Revised question so that entities providing *Best Efforts Business Internet Access Services* that are exempt from providing data and information in response to the data collection can certify as such and clarified language to cover entities required to report broadband connections to end user locations on the Form 477 for 2012.

Other Requests for Clarifications and Changes

We have reviewed all of the requests for changes and clarifications to the data collection and have addressed many of the requests in the revised questions described in Section III.C or in the attached instructions. Clarifications or changes not made as requested were

because the benefit of collecting the information outweighed the burden or because the requested clarification or change is inconsistent with the terms of the *Special Access Data Collection Order*, outside the scope of our delegated authority, or because the Commission previously considered and rejected the requested relief.

Procedural Matters

Deadline for Responding. Once OMB has approved the data collection, we will publish notice of such approval in the **Federal Register** and issue a public notice announcing the deadline for responding.

Responding to the Data Collection. In addition to the attached instructions discussing the data specifications, we will post additional instructions on the submission process on the Commission's Web site. The Commission will create an electronic interface for the submission of information. Submissions will involve the uploading of documents in response to various questions and interrogatories and the electronic delivery of data. We will provide a data container file for submitting data that will include validation scripts to verify that the filer is providing the data in the appropriate format.

Confidential Information. The data collection seeks information on facilities, billing, revenue, and expenditure that is considered confidential by businesses. The Bureau will release separately a Protective Order outlining procedures for designating and accessing information deemed confidential and highly confidential.

Paperwork Reduction Act Analysis. This Report and Order further implements the information collection requirement adopted by the Commission in the *Special Access Data Collection Order*. The Commission is in the process of seeking approval for the collection from OMB pursuant to the PRA, Public Law 104-13. The actions taken in the Report and Order are based on comments received during the initial 60-day PRA comment period, meetings with industry, and our own internal further review to enhance the quality, utility, and clarity of the collection.

Final Regulatory Flexibility Act. The Regulatory Flexibility Act of 1980, as amended (RFA) requires that a regulatory flexibility analysis be prepared for rulemaking proceedings, unless the agency certifies that "the rule will not have a significant economic impact on a substantial number of small entities." The RFA generally defines "small entity" as having the same

meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration.

The *Special Access Data Collection Order* contains a Final Regulatory Flexibility Analysis (FRFA) that can be found at Appendix B of that Order. We incorporate the FRFA contained in the *Special Access Data Collection Order* into this Report and Order. The actions taken in this Report and Order do not create any burdens, benefits, or requirements that were not addressed by the FRFA attached to the *Special Access Data Collection Order*.

Congressional Review Act. As required by the Congressional Review Act (CRA), the Commission previously sent a copy of the *Special Access Data Collection Order* to Congress and the Government Accountability Office. The Commission will send a copy of this Report and Order to Congress and the Government Accountability Office pursuant to the CRA.

Ex Parte Presentations. This is a permit-but-disclose proceeding and subject to the requirements of Section 1.1206(b) of the rules. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one-sentence or two-sentence description of the views and arguments presented is generally required.

Mandatory Data Collection

I. Definitions

The following definitions apply for purposes of this collection only. They are not intended to set or modify precedent outside the context of this collection.

Affiliated Company means a company, partnership, corporation, limited liability company, or other business entity that is affiliated with an entity that provides and/or purchases *Dedicated Service*. Two entities are affiliated if one of them, or an entity that controls one of them, directly or indirectly holds a greater than 10 percent ownership interest in, or controls, the other one.

Best Efforts Business Broadband Internet Access Service means a best

efforts Internet access data service with a minimum advertised bandwidth connection of at least 1.5 megabits per second (Mbps) in both directions (upstream/downstream) that is marketed to enterprise customers (including small, medium, and large businesses). For purposes of this data collection, *Best Efforts Business Broadband Internet Access Services* do not include mobile wireless services, as that term is used in the *16th Annual Mobile Wireless Competition Report*.

Circuit-Based Dedicated Service (CBDS) means a *Dedicated Service* that is circuit-based. Examples of CBDS include time-division multiplexing-based, *DS1* and *DS3* services.

Competitive Provider means a competitive local exchange carrier (CLEC), interexchange carrier, cable operator, wireless provider or any other entity that is subject to the Commission's jurisdiction under the Communications Act of 1934, as amended, and either provides a *Dedicated Service* or provides a *Connection* over which a *Dedicated Service* could be provided. A *Competitive Provider* does not include an *ILEC* operating within its incumbent service territory.

Connection means a wired "line" or wireless "channel" that provides a dedicated communication path between a *Location* and the first *Node* on a *Provider's* network. Multiple dedicated communication paths serving one or more *End Users* at the same *Location* should be counted as a single *Connection*. A *Connection* may be a *UNE*, including an *Unbundled Copper Loop* if modified to provide a *Dedicated Service*. A *Connection* must have the capability of being used to provide one or more *Dedicated Services*; however, a *Connection* can be used to provide other services as well. For example, a dedicated communication path that is currently being used to provide a mass market broadband service but has the capability to provide a *Dedicated Service* is considered a *Connection* for the purpose of this data collection.

Contract-Based Tariff means a *Tariff*, other than a *Tariff Plan*, that is based on a service contract entered into between a customer and an *ILEC* which has obtained permission to offer contract-based tariff services pursuant to 47 CFR 69.701 *et seq.* of the Commission's pricing flexibility rules or a comparable tariffed intrastate service contract between a customer and an *ILEC*.

Dedicated Service transports data between two or more designated points, e.g., between an *End User's* premises and a point-of-presence, between the central office of a local exchange carrier

(LEC) and a point-of-presence, or between two *End User* premises, at a rate of at least 1.5 Mbps in both directions (upstream/downstream) with prescribed performance requirements that include bandwidth-, latency-, or error-rate guarantees or other parameters that define delivery under a *Tariff* or in a service-level agreement. *Dedicated Service* includes, but is not limited to, *CBDS* and *PBDS*. For the purpose of this data collection, *Dedicated Service* does not include "best effort" services, e.g., mass market broadband services such as DSL and cable modem broadband access.

Disconnection means the process by which a *Provider*, per a customer request, terminates billing on one or more of a customer's *Dedicated Service* circuits.

DS1 and *DS3*, except where specified, refer to *DS1s* and *DS3s* that are not *UNEs*. *DS1s* and *DS3s* are *Dedicated Services*.

End User means a business, institutional, or government entity that purchases a communications service for its own purposes and does not resell such service. A mobile wireless service provider is considered an *End User* when it purchases communications services to make connections within its own network, e.g., backhaul to a cell site.

End User Channel Termination means, as defined in 47 CFR 69.703(a)(2), a dedicated channel connecting a LEC end office and a customer premises, offered for purposes of carrying special access traffic.

Incumbent Local Exchange Carrier (ILEC) means, for the purpose of this data collection, a LEC that provides a *Dedicated Service* in study areas where it is subject to price cap regulation under Sections 61.41–61.49 of the Commission's rules, 47 CFR 64.41–61.49.

Indefeasible Right of Use (IRU) means an indefeasible long-term leasehold interest for a minimum total duration of ten years that gives the grantee the right to access and exclusively use specified strands of fiber or allocated bandwidth to provide a service as determined by the grantee. An *IRU* confers on the grantee substantially all of the risks and rewards of ownership. *IRUs* typically include the following elements: (i) Payment of a substantial fee up front to enter into the *IRU* contract; (ii) conveyance of tax obligations commensurate with the risks and rewards of ownership to the grantee (e.g. as opposed to the lesser tax burdens associated with other forms of leases); (iii) terms for payment to the grantor for ancillary services, such as maintenance

fees; (iv) all additional rights and interests necessary to enable the *IRU* to be used by the grantee in the manner agreed to; and (v) no unreasonable limit on the right of the grantee to use the asset as it wishes (e.g., the grantee shall be permitted to splice into the *IRU* fiber, though such splice points must be mutually agreed upon by grantor and the grantee of the *IRU*).

Location means a building, other man-made structure, a cell site on a building, a free-standing cell site, or a cell site on some other man-made structure where the *End User* is connected. A *Node* is not a *Location*. For the purposes of this data collection, cell sites are to be treated as *Locations* and not as *Nodes*.

Metropolitan Statistical Area (MSA) is a geographic area as defined by 47 CFR 22.909(a), 69.703(b).

Node is an aggregation point, a branch point, or a point of interconnection on a *Provider's* network, including a point of interconnection to other *Provider* networks. Examples include LEC central offices, remote terminal locations, splice points (including, for example, at manholes), controlled environmental vaults, cable system headends, cable modem termination system (CMTS) locations, and facility hubs.

Non-MSA is the portion of an *ILEC's* study area that falls outside the boundaries of an *MSA*.

Non-Rate Benefit means a benefit to the customer other than a discount on the *One Month Term Only Rate*, e.g., a credit towards penalties or non-recurring charges or the ability to move circuits without incurring a penalty.

One Month Term Only Rate means, for purposes of this data collection, the non-discounted monthly recurring tariffed rate for *DS1*, *DS3* and/or *PBDS* services.

Packet-Based Dedicated Service (PBDS) means a *Dedicated Service* that is packet-based. Examples of *PBDS* include Multi-Protocol Label Switched (MPLS) services; permanent virtual circuits, virtual private lines and similar services; ATM and Frame Relay service; (Gigabit) Ethernet Services and Metro Ethernet Virtual Connections; and Virtual Private Networks (VPN). *PBDS* includes those categories of packet-based and optical transmission services for which the Commission has granted forbearance relief from dominant carrier regulation.

Phase I Pricing Flexibility means regulatory relief for the pricing of *End User Channel Terminations* pursuant to 47 CFR 69.711(b), 69.727(a) of the Commission's rules.

Phase II Pricing Flexibility means regulatory relief for the pricing of *End*

User Channel Terminations pursuant to 47 CFR 69.711(c), 69.727(b) of the Commission's rules.

Prior Purchase-Based Commitment means a type of *Volume Commitment* where the commitment is based on either:

(i) A certain percentage or number of the customer's purchased in-service circuits or lines as measured at the time of making the *Volume Commitment* or measured during a period of time prior to making the *Volume Commitment*, e.g., based on the customer's billing records for the current month or prior month(s); or

(ii) a certain percentage or dollar amount of *Revenues* generated by the customer's purchases as measured at the time of making the *Volume Commitment* or during a period of time prior to making the *Volume Commitment*.

Providers collectively refers to both *ILECs* and *Competitive Providers*.

Purchasers means *Competitive Providers* and *End Users* that are subject to the Commission's jurisdiction under the Communications Act of 1934, as amended, and purchase *Dedicated Service*.

Revenues means intrastate and interstate billed amounts without any allowance for uncollectibles, commissions or settlements.

Tariff means an intrastate or interstate schedule of rates and regulations filed by common carriers. This term includes both *Tariff Plans* and *Contract-Based Tariffs*.

Tariff Plan means a *Tariff*, other than a *Contract-Based Tariff*, that provides a customer with either a discount from any *One Month Term Only Rate* for the purchase of *DS1* and/or *DS3* services or a *Non-Rate Benefit* that could be applied to these services.

Term Commitment means a commitment to purchase a *Dedicated Service* for a period of time, greater than a month, in exchange for a circuit-specific discount and/or a *Non-Rate Benefit*.

Transport Service means a dedicated circuit that connects a designated *Competitive Provider's* premises to the wire center that serves the *Competitive Provider's* customer. Such an arrangement may or may not include channel mileage. See 47 CFR 69.709(a).

Transport Provider means a *Provider* that supplies *Transport Service*.

Unbundled Copper Loop means a copper wire local loop provided by *ILECs* to requesting telecommunications carriers on a non-discriminatory basis pursuant to 47 CFR 51.319(a)(1) that can be used by a *Competitive Provider* to provide a *Dedicated Service*, e.g.,

Ethernet over Copper. An *Unbundled Copper Loop* is typically a 2- or 4- wire loop that the *ILEC* has conditioned to remove intervening equipment such as bridge taps, load coils, repeaters, low pass filters, range extenders, etc. between a *Location* and the serving wire center to allow for the provision of advanced digital services by a *Competitive Provider*. These loops are commonly referred to as dry copper, bare copper, or xDSL-compatible loops. An *Unbundled Copper Loop* is a type of *UNE*.

Unbundled Network Element (UNE) means a local loop provided by an *ILEC* to a requesting telecommunications carrier on a non-discriminatory basis pursuant to 47 CFR 51.319(a).

Upgrade means that a customer transitions one or more circuits to a higher capacity circuit.

Volume Commitment means a commitment to purchase a specified volume, e.g., a certain number of circuits or *Revenues*, to receive a discount on *Dedicated Services* and/or a *Non-Rate Benefit*.

II. Mandatory Data Collection Questions

A. Competitive Providers must respond to the following:

II.A.1. Indicate whether you are an *Affiliated Company*. If you are an *Affiliated Company*, you must identify the entities that provide and/or purchase *Dedicated Service* with which you have an affiliation (name/FRN).

II.A.2. Do you (i) own a *Connection*; (ii) lease a *Connection* from another entity under an *IRU* agreement; or (iii) obtain a *Connection* as a *UNE* from an *ILEC* to provide a *Dedicated Service*?

☐ Yes ☐ No

a. If yes, are any of these *Connections* to a *Location* within an area where the *ILEC* is subject to price cap regulation or within an area where the Commission has granted *Phase I* or *Phase II Pricing Flexibility*?

☐ Yes ☐ No

If you answered "no" to question II.A.2 or II.A.2.a, then you are not required to respond to the remaining questions in II.A or the questions in II.D.

Facilities Information

II.A.3. Provide the total number of *Locations* to which you had a *Connection* during 2010 and during 2012 where your company: (i) owned the *Connection*; (ii) leased the *Connection* from another entity under an *IRU* agreement; or (iii) obtained the *Connection* as a *UNE* from an *ILEC* in the form of *DS1s*, *DS3s*, or *Unbundled Copper Loops* to provide a *Dedicated Service*.

II.A.4. Provide the information requested below for each *Location* to which your company had a *Connection* during 2010 and during 2012 that you: (i) owned; (ii) leased from another entity under an *IRU* agreement; or (iii) obtained as a *UNE* from an *ILEC* to provide a *Dedicated Service*.

- a. A unique ID for the *Location*;
- b. The actual situs address for the *Location* (i.e., land where the building or cell site is located);
- c. The geocode for the *Location* (i.e., latitude and longitude);
- d. The *Location* type (e.g., building, other man-made structure, cell site in or on a building, free-standing cell site, or a cell site on some other man-made structure like a water tower, billboard, etc.);
- e. Whether the *Connection* provided to the location uses facilities leased from another entity under an *IRU* or obtained as a *DS1/DS3 UNE* or *Unbundled Copper Loop*, and in each case, the name of the lessor of the majority of the fiber strands and/or copper loop;
- f. Whether any of the *Connection* to the *Location* was provided using fiber;
- g. The total sold bandwidth of the *Connection* provided by you to the *Location* in Mbps;
- h. The total bandwidth to the *Location* sold directly by you to an *End User*;
- i. The total sold fixed wireless bandwidth provided by you to the *Location*; and
- j. The total bandwidth sold by you to any cell sites at the *Location*.

k. The total bandwidth provided to you or an *Affiliated Company* for internal use.

II.A.5. Provide a map showing the fiber routes that you (a) own or (b) lease pursuant to an *IRU* agreement that constitute your network, including the fiber *Connections* to *Locations*. In addition, include the locations of all *Nodes* used to interconnect with third party networks, and the year that each *Node* went live.

II.A.6. We will provide you with a selected list of the *Locations* you reported in response to question II.A.4. For each identified *Location*, state the month and year that you first provided a *Connection* to that *Location*, whether you originally supplied the *Location* over a *UNE*, and if so, when (if at all) you switched to using a *Connection* that you own or lease as an *IRU*. If the *Location* was first served by your *Connection* on or before January 2008, and the date the *Location* was first served is unknown, then enter 00/0000.

II.A.7. For each *ILEC* wire center where your company is collocated,

provide the actual situs address, the geocode, and the CLLI code.

II.A.8. Explain your business rule(s) used to determine whether to build a *Connection* to a particular *Location*. Provide underlying assumptions.

a. Describe the business rules and other factors that determine where you build your *Connections*. Examples of such rules/factors are minimum *Term Commitments* or minimum capacity commitments by the buyer; maximum build distances from the building to your core network; and/or number of competitors in the area. Include, also, any factors that would prevent you from building a *Connection* to an otherwise suitable *Location*. These could be factors that are under your control or those that are not.

b. Explain how, if at all, business density is incorporated into your business rule, and if so, how you measure business density.

c. In areas where your business rule has been most successful, explain why. Provide examples of geographic regions (if any) where you generally were or are able to successfully deploy *Connections*, and where you generally have experienced or currently experience serious difficulties in deploying *Connections*, and, if you are able to provide examples of both kind of regions, indicate what distinguishes these different regions.

II.A.9. Provide the following information:

a. The current situs address of your U.S. headquarters (i.e., the address of the land where the headquarters is located);

b. The year that this site became your headquarters;

c. Year established and situs address for any prior U.S. headquarters' location for your company, going as far back as 1995, if different from the headquarters' location listed in response to question II.A.9.a;

d. Going as far back as 1995, the date of acquisition and the situs address for the U.S. headquarters location of any entity that owned, or leased under an *IRU* agreement, *Connections* to five or more *Locations* in any *MSA* at the time you acquired the entity in a merger where you or your subsidiary was the surviving entity.

e. The name of any *Affiliated Company* that owned, or leased under an *IRU* agreement, *Connections* to five or more *Locations* in any *MSA* at the time you became affiliated with the *Affiliated Company*, going as far back as 1995.

f. For each *Affiliated Company* listed in response to question II.A.9.e, provide:

i. The year of affiliation;

ii. The situs address for each *Affiliated Company's* U.S. headquarters at the time of affiliation;

iii. The year that the *Affiliated Company* established the situs address listed in response to question II.A.9.f.i for its U.S. headquarters; and

iv. The year established and situs address for any prior U.S. headquarters' location designated by the *Affiliated Company*, going as far back as 1995 or the year of affiliation, whichever is most recent, if different from the headquarters' location listed in response to question II.A.9.f.i.

II.A.10. Provide data, maps, information, marketing materials, and/or documents identifying those geographic areas where you, or an *Affiliated Company*, advertised or marketed *Dedicated Service* over existing facilities, via leased facilities, or by building out new facilities as of December 31, 2010 and as of December 31, 2012, or planned to advertise or market such services within twenty-four months of those dates.

II.A.11. Identify the five most recent Requests for Proposals (RFPs) for which you were selected as the winning bidder to provide each of the following: (a) *Dedicated Services*; (b) *Best Efforts Business Broadband Internet Access Services*; and, to the extent different from (a) or (b), (c) some other form of high-capacity data services to business customers. In addition, identify the five largest RFPs (by number of connections) for which you submitted an unsuccessful competitive bid between 2010 and 2012 for each of (a) *Dedicated Services*; (b) *Best Efforts Business Broadband Internet Access Services*; and, to the extent different from (a) or (b), (c) some other form of high-capacity data services to business customers. For each RFP identified, provide a description of the RFP, the area covered, the price offered, and other competitively relevant information. Lastly, identify the business rules you

rely upon to determine whether to submit a bid in response to an RFP.

Billing Information

II.A.12. For all *Dedicated Services* provided using transmission paths that you (i) own; (ii) lease from another entity under an *IRU* agreement; or (iii) obtain as a *UNE* from an *ILEC* to provide a *Dedicated Service*, submit the following information by circuit element by circuit billed for each month from January 1 to December 31 for the years 2010 and 2012.

a. The closing date of the monthly billing cycle in mm/dd/yyyy format;

b. The name and six-digit 499-A Filer ID of the customer, where applicable, or other unique ID if customer does not have a 499-A Filer ID;

c. The *Location ID* from question II.A.4.a that is used to link the circuit elements to the terminating *Location* of the circuit (where applicable);

d. The circuit ID common to all elements purchased in common for a particular circuit;

e. The type of circuit (*PBDS*, or *DS1* or *DS3*, etc.) and its bandwidth;

f. A unique billing code for the circuit element (see question II.A.14);

g. The number of units billed for this circuit element (note that the bandwidth of the circuit must not be entered here);

h. The dollar amount of non-recurring charges billed for the first unit of this circuit element;

i. The dollar amount of non-recurring charges billed for additional units of this circuit element (if different from the amount billed for the initial unit);

j. The monthly recurring dollar charge for the first unit of the circuit element billed;

k. The monthly recurring dollar charge for additional units (if different from the amount billed for the initial unit);

l. Per unit charge for the circuit element;

m. The total monthly dollar amount billed for the circuit element;

n. The *Term Commitment* associated with this circuit in months;

o. Indicate whether this circuit element is associated with a circuit that contributes to a *Volume Commitment*; and

p. The adjustment ID (or multiple adjustment IDs) linking this circuit element to the unique out-of-cycle billing adjustments in question II.A.13.a (below) if applicable.

II.A.13. For each adjustment, rebate, or true-up for billed *Dedicated Services*, provide the information requested below.

a. A unique ID number for the billing adjustment, rebate, or true-up (see question II.A.12.p above) and a unique ID number for the *Tariff* or contract from which the adjustment originates;

b. The beginning date of the time period covered by the adjustment or true-up;

c. The ending date of the time period covered by the adjustment or true-up;

d. The scope of the billing adjustment, *i.e.*, whether the adjustment applies to a single circuit element on a single circuit, more than one circuit element on a single circuit, more than one circuit element across multiple circuits, or an overall adjustment that applies to every circuit element on every circuit purchased by the customer;

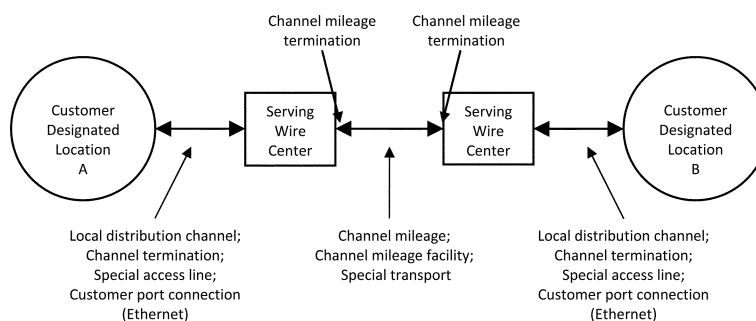
e. The dollar amount of the adjustment or true-up; and

f. A brief description of the billing adjustment, rebate or true-up, *e.g.*, term discount, revenue target rebate, etc.

II.A.14. For each unique billing code, please provide the following information below.

a. The billing code for the circuit element;

b. Select the phrase that best describes the circuit element from the list. Names of some common rate elements are shown on the generalized circuit diagram below:



i. Channel mileage facility, channel mileage, interoffice channel mileage,

special transport (a transmission path between two serving wire centers

associated with customer designated locations; a serving wire center and an

international or service area boundary point; a serving wire center and a hub, or similar type of connection);

ii. Channel mileage termination, special transport termination (the termination of channel mileage facility or similar transmission path);

iii. Channel termination, local distribution channel, special access line, customer port connection (Ethernet) (a transmission path between a customer designated location and the associated wire center);

iv. Clear channel capability (not shown) (an arrangement which allows a customer to transport, for example, 1.536 Mbps of information on a 1.544 Mbps line rate with no constraint on the quantity or sequence of one and zero bits);

v. Cross-connection (not shown) (semi-permanent switching between facilities, sometimes combined with multiplexing/demultiplexing);

vi. Multiplexing (not shown) (channelizing a facility into individual services requiring a lower capacity or bandwidth); and

vii. Class of service and/or committed information rate (not shown) (for Ethernet, the performance characteristics of the network and bandwidth available for a customer port connection).

c. If none of the possible entries describes the circuit element, enter a short description.

Revenues, Terms and Conditions Information

II.A.15. What were your *Revenues* from the sale of *CBDS* in 2010 and 2012? For each year, report *Revenues* in total, separately by *DS1*, *DS3*, and other *CBDS* sales, and separately by customer category, *i.e.*, sales to *Providers* and *End Users*.

II.A.16. What were your *Revenues* from the sale of *PBDS* in 2010 and 2012? For each year, report *Revenues* in total, separately by customer category, *i.e.*, sales to *Providers* and *End Users*, and separately by bandwidth for the following categories:

- a. Less than or equal to 1.5 Mbps;
- b. greater than 1.5, but less than or equal to 50 Mbps;
- c. greater than 50, but less than or equal to 100 Mbps;
- d. greater than 100, but less than or equal to 1 Gbps; and
- e. greater than 1 Gbps.

II.A.17. What percentage of your *Revenues* from the sale of *DS1*, *DS3*, and *PBDS* services in 2012 were generated from an agreement or *Tariff* that contains a *Prior Purchase-Based Commitment*?

II.A.18. If you offer *Dedicated Services* pursuant to an agreement or

Tariff that contains either a *Prior Purchase-Based Commitment* or a *Non-Rate Benefit*, then explain how, if at all, those sales are distinguishable from similarly structured *ILEC* sales of *DS1s*, *DS3s*, and/or *PBDS*.

II.A.19. Provide the business justification for the *Term* or *Volume Commitments* associated with any *Tariff* or agreement you offer or have in effect with a customer for the sale of *Dedicated Services*.

B. *ILECs must respond to the following:*

II.B.1. Indicate whether you are an *Affiliated Company*. If you are an *Affiliated Company*, you must identify the entities that provide and/or purchase *Dedicated Service* with which you have an affiliation (name/*FRN*).

Facilities Information

II.B.2. Provide the total number of *Locations* to which you provided a *Connection* in your company's study areas during 2010 and during 2012 where your company: (i) owned the *Connection*; or (ii) leased the *Connection* from another entity under an *IRU* agreement.

II.B.3. Provide the information requested below for each *Location* to which your company had a *Connection* during 2010 and during 2012 that you (i) owned or (ii) leased from another entity under an *IRU* agreement:

- a. A unique ID for the *Location*;
- b. The actual situs address for the *Location* (*i.e.*, land where the building or cell site is located);
- c. The geocode for the *Location* (*i.e.*, latitude and longitude);
- d. The *Location* type (*e.g.*, building, other man-made structure, cell site in or on a building, free-standing cell site, or a cell site on some other man-made structure like a water tower, billboard, etc.);
- e. Whether any of the *Connection* to the *Location* was provided using fiber;
- f. The total sold bandwidth of the *Connection* provided by you to the *Location* in Mbps;
- g. The total bandwidth to the *Location* sold by you as *UNEs* in the form of *DS1s* and/or *DS3s*;
- h. The total bandwidth to the *Location* sold directly by you to an *End User*;
- i. The total sold fixed wireless bandwidth provided by you to the *Location*; and
- j. The total bandwidth sold by you to any cell sites at the *Location*.

Billing Information

II.B.4. For all *Dedicated Services* provided using transmission paths that you (i) own or (ii) lease from another

entity under an *IRU* agreement, submit the following information by circuit element by circuit billed for each month from January 1 to December 31 for the years 2010 and 2012.

- a. The closing date of the monthly billing cycle in mm/dd/yyyy format;
- b. The name and six-digit 499A Filer ID of the customer, where applicable, or other unique ID if customer does not have a 499A Filer ID;
- c. The *Location* ID from question II.B.3.a that is used to link the circuit elements to the terminating *Location* of the circuit (where applicable);
- d. The circuit ID common to all elements purchased in common for a particular circuit;
- e. The type of circuit, (*DS1* sold as a *UNE*, *DS3* sold as a *UNE*, *PBDS*, non-*UNE DS1s* or *DS3s*, etc.) and the bandwidth of the circuit;
- f. The serving wire center/mileage rating point Common Language Location Identification (CLLI) of one end of the circuit (MRP1);
- g. The serving wire center/mileage rating point CLLI of the other end of the circuit (MRP2);
- h. The latitude of MRP1;
- i. The longitude of MRP1;
- j. The latitude of MRP2;
- k. The longitude of MRP2;
- l. End of the circuit (1 = MRP1 or 2 = MRP2) associated with this circuit element;
- m. The billing code for the circuit element (*see* question II.B.6);
- n. The density pricing zone for the circuit element;
- o. The number of units billed for this circuit element (note that the bandwidth of the circuit must not be entered here);
- p. The dollar amount of non-recurring charges billed for the first unit of this circuit element;
- q. The dollar amount of non-recurring charges billed for additional units of this circuit element (if different from the amount billed for the initial unit);
- r. The monthly recurring dollar charge for the first unit of the circuit element billed;
- s. The monthly recurring dollar charge for additional units (if different from the amount billed for the initial unit);
- t. Per unit charge for the circuit element;
- u. The total monthly dollar amount billed for the circuit element;
- v. The *Term Commitment* associated with this circuit in months;
- w. Indicate whether this circuit element is associated with a circuit that contributes to a *Volume Commitment*;
- x. Indicate whether this circuit element was purchased pursuant to a *Contract-Based Tariff*; and

y. The adjustment ID (or multiple adjustment IDs) linking this circuit element to the unique out-of-cycle billing adjustments in question II.B.5.a (below) if applicable.

II.B.5. For each adjustment, rebate, or true-up for billed *Dedicated Services*, provide the information requested below.

a. A unique ID for the billing adjustment or true-up (see question II.B.4.y above);

b. A unique ID number for the contract or *Tariff* from which the adjustment originates;

c. The beginning date of the time period covered by the adjustment or true-up;

d. The ending date of the time period covered by the adjustment or true-up;

e. The scope of the billing adjustment, *i.e.*, whether the adjustment applies to a single circuit element on a single circuit, more than one circuit element on a single circuit, more than one circuit element across multiple circuits, or an overall adjustment that applies to every circuit element on every circuit purchased by the customer;

f. The dollar amount of the adjustment or true-up;

g. Whether the adjustment is associated with a *Term Commitment*, and if so, the length of the term specified in the contract or *Tariff* necessary to achieve the rebate;

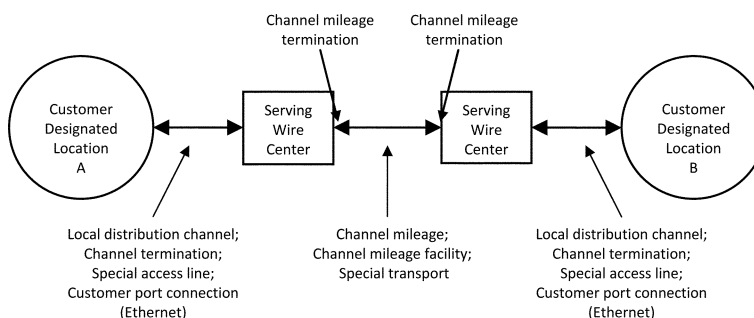
h. Whether the adjustment is associated with a *Volume Commitment*, and if so, the number of circuits and/or dollar amount specified in the contract or *Tariff* necessary to achieve the rebate; and

i. If the adjustment is for some other reason, a brief description of the reason for the adjustment.

II.B.6. For each unique billing code, please provide the following information below.

a. The billing code for the circuit element;

b. The phrase that best describes the circuit element from the list. Names of some common rate elements are shown on the generalized circuit diagram below:



i. Channel mileage facility, channel mileage, interoffice channel mileage, special transport (a transmission path between two serving wire centers associated with customer designated locations; a serving wire center and an international or service area boundary point; a serving wire center and a hub, or similar type of connection);

ii. Channel mileage termination, special transport termination (the termination of channel mileage facility or similar transmission path);

iii. Channel termination, local distribution channel, special access line, customer port connection (Ethernet) (a transmission path between a customer designated location and the associated wire center);

iv. Clear channel capability (not shown) (an arrangement which allows a customer to transport, for example, 1.536 Mbps of information on a 1.544 Mbps line rate with no constraint on the quantity or sequence of one and zero bits);

v. Cross-connection (not shown) (semi-permanent switching between facilities, sometimes combined with multiplexing/demultiplexing);

vi. Multiplexing (not shown) (channelizing a facility into individual services requiring a lower capacity or bandwidth); and

vii. Class of service and/or committed information rate (not shown) (for Ethernet, the performance characteristics of the network and bandwidth available for a customer port connection).

c. If none of the possible entries describes the rate element, enter a short description.

II.B.7. List the CLLI code for each one of your wire centers that was subject to price cap regulation as of December 31, 2010 and as of December 31, 2012, *i.e.*, those wire centers in your incumbent territory where the Commission had not granted you pricing flexibility. For those MSAs and Non-MSAs where the Commission granted you *Phase I* or *Phase II Pricing Flexibility* as of December 31, 2010 and as of December 31, 2012, list the CLLI codes for the wire centers associated with each MSA and Non-MSA for each year, the name of the relevant MSA and Non-MSA for each year, and the level of pricing flexibility granted for the MSA and Non-MSA, *i.e.*, *Phase I* and/or *Phase II Pricing Flexibility*.

Revenues, Terms and Conditions Information

II.B.8. What were your *Revenues* from the sale of *CBDS* services in 2010 and 2012? For each year, report *Revenues* in

total, separately by *DS1*, *DS3*, and other *CBDS* sales, and separately by customer category, *i.e.*, sales to *Competitive Providers* and *End Users*.

II.B.9. What were your *Revenues* from the sale of *PBDS* services in 2010 and 2012? For each year, report *Revenues* in total, separately by customer category, *i.e.*, sales to *Competitive Providers* and *End Users*, and separately by bandwidth for the following categories:

- Less than or equal to 1.5 Mbps;
- greater than 1.5, but less than or equal to 50 Mbps;
- greater than 50, but less than or equal to 100 Mbps;
- greater than 100, but less than or equal to 1 gigabyte per second (Gbps); and
- greater than 1 Gbps.

II.B.10. What were your *Revenues* from the *One Month Term Only Rate* charged for *DS1*, *DS3*, and/or *PBDS* services in 2010 and 2012? For each year, report *Revenues* in total, separately by *DS1*, *DS3*, and *PBDS* sales as applicable, and separately by customer category, *i.e.*, sales to *Competitive Providers* and *End Users*.

II.B.11. How many customers were purchasing *DS1*, *DS3*, and/or *PBDS* services pursuant to your *One Month Term Only Rates* as of December 31, 2012? Report customer numbers in total, separately for *DS1*, *DS3*, and *PBDS*

services as applicable, and separately by customer category, *i.e.*, the number of *DS1*, *DS3*, and *PBDS* service customers that were *Competitive Providers* and *End Users*.

II.B.12. Separately list all *Tariff Plans* and *Contract-Based Tariffs* that can be applied to the purchase of *DS1*, *DS3* and/or *PBDS* services and provide the information requested below for each plan.

a. This plan is a:

☐ *Tariff Plan* ☐ *Contract-Based Tariff*
(select one)

b. Plan name:

c. *Tariff* and Section Number(s):

d. This plan contains:

☐ *Term Commitment(s)* ☐ *Volume Commitment(s)*

☐ *Non-Rate Benefit* option(s) (select all that apply)

e. If the plan contains options for *Non-Rate Benefits*, explain the available *Non-Rate Benefits*.

f. This plan can be applied to the purchase of:

☐ *DS1* services ☐ *DS3* services
☐ *PBDS* ☐ Other (select all that apply)

g. In what geographic areas is this plan available, *e.g.*, nationwide or certain *MSAs*?

i. Is plan available in ☐ *MSAs*,
☐ *Non-MSAs*, or ☐ both types of areas?

ii. If plan is available in *Non-MSAs*, indicate the states where the *Non-MSA* areas are located?

h. To receive a discount or *Non-Rate Benefit* under this plan, must the customer make a *Prior Purchase-Based Commitment*?

☐ Yes ☐ No

i. Do purchases of *DS1* or *DS3* services in areas outside of the study area(s) where you are subject to price cap regulation (*e.g.*, purchases from an *Affiliated Company* that is a CLEC) count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?

☐ Yes ☐ No ☐ N/A (no *Volume Commitment*)

j. Do *DS1* or *DS3* purchases in areas where you are subject to price cap regulation and where pricing flexibility has not been granted count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?

☐ Yes ☐ No ☐ N/A (no *Volume Commitment*)

k. Do *DS1* or *DS3* purchases in areas where you have been granted *Phase I Pricing Flexibility* count towards

meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?

☐ Yes ☐ No ☐ N/A (no *Volume Commitment*)

l. Do *DS1* or *DS3* purchases in areas where you have been granted *Phase II Pricing Flexibility* count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?

☐ Yes ☐ No ☐ N/A (no *Volume Commitment*)

m. Do non-tariffed *PBDS* purchases by the customer count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?

☐ Yes ☐ No ☐ N/A (no *Volume Commitment*)

n. Do tariffed *PBDS* purchases by the customer count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?

☐ Yes ☐ No ☐ N/A (no *Volume Commitment*)

o. Do purchases by the customer for services other than *DS1s*, *DS3s*, and *PBDS* count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?

☐ Yes ☐ No ☐ N/A (no *Volume Commitment*)

p. Is the discount or *Non-Rate Benefit* available under this plan conditioned on the customer limiting its purchase of *UNEs*, *e.g.*, customer must keep its purchase of *UNEs* below a certain percentage of the customer's total spend?

☐ Yes ☐ No

q. What were your *Revenues* from the provision of *Dedicated Service* under this plan in 2010 and in 2012?

r. What is the business justification for any *Term* or *Volume Commitments* associated with this plan?

s. How many customers were subscribed to this plan as of December 31, 2012? Report customer numbers in total, separately for *DS1*, *DS3*, and *PBDS* services as applicable, and separately by customer category, *i.e.*, the number of *DS1*, *DS3*, and/or *PBDS* customers that were *Competitive Providers* and *End Users*.

i. If there were five or fewer customers subscribed to this plan as of December 31, 2012, indicate the number of subscribers to this plan that were new customers (as opposed to an existing or prior customer) at the time they subscribed to this plan.

ii. For those subscribers to this plan that were existing or prior customers at the time they committed to purchasing services under this plan, explain how the purchase commitment made under this plan compares to the customer's previous purchase commitment. For example, indicate what percentage of the previous purchase commitment, the new purchase commitment equals.

t. Of those customers subscribed as of December 31, 2012, how many in 2012 failed to meet any *Volume Commitment* or *Term Commitment* required to retain a discount or *Non-Rate Benefit* they originally agreed to when entering into this plan?

II.B.13. Indicate whether you have any non-tariffed agreement with an *End User* or *Competitive Provider* that, directly or indirectly, provides a discount or a *Non-Rate Benefit* on the purchase of tariffed *DS1s*, *DS3s*, and/or *PBDS*, restricts the ability of the *End User* or *Competitive Provider* to obtain *UNEs*, or negatively affects the ability of the *End User* or *Competitive Provider* to purchase *Dedicated Services*. If so, identify each agreement, including the parties to the agreements, the effective date, end date, and a summary of the relevant provisions.

C. *Certain Entities that provide Best Efforts Business Broadband Internet Access Services must respond to the following:*

II.C.1. If you provide *Best Efforts Business Broadband Internet Access Services* to 15,000 or more customers or 1,500 or more business broadband customers in areas where the *ILEC* is subject to price cap regulation, then answer the following questions:

a. Did you submit data in connection with the State Broadband Initiative (SBI) Grant Program for 2010?

☐ Yes ☐ No

b. Did you submit data in connection with the SBI Grant Program for 2012?

☐ Yes ☐ No

If you answered "no" to questions II.C.1.a and II.C.1.b, then you do not need to answer any further questions in this section.

c. Did the data you submitted in connection with the SBI Grant Program in 2010 accurately and completely identify the areas in which you offered *Best Efforts Business Broadband Internet Access Services* and exclude those areas where you did not offer such services as of December 31, 2010?

☐ Yes ☐ No

i. If yes, then provide the list of prices for those *Best Efforts Business Broadband Internet Access Services* that you were marketing in each census

block submitted in connection with the SBI Grant Program as of December 31, 2010. If there is a price variation within your service footprint, indicate which prices are associated with which census blocks.

ii. If no, then provide a list of all the census blocks in which you offered *Best Efforts Business Broadband Internet Access Services* as of December 31, 2010, and a list of the prices for those *Best Efforts Business Broadband Internet Access Services* that you were marketing in each census block as of December 31, 2010. If there is a price variation within your service footprint, indicate which prices are associated with which census blocks.

d. Did the data you submitted in connection with the SBI Grant Program in 2012 accurately and completely identify the areas in which you offered *Best Efforts Business Broadband Internet Access Services* and exclude those areas where you did not offer such services as of December 31, 2012?

☐ Yes ☐ No

i. If yes, then provide the list of prices for those *Best Efforts Business Broadband Internet Access Services* that you were marketing in each census block submitted in connection with the SBI Grant Program as of December 31, 2012. If there is a price variation within your service footprint, indicate which prices are associated with which census blocks.

ii. If no, then provide a list of all the census blocks in which you offered *Best Efforts Business Broadband Internet Access Services* as of December 31, 2012, and a list of the prices for those *Best Efforts Business Broadband Internet Access Services* that you were marketing in each census block as of December 31, 2012. If there is a price variation within your service footprint, indicate which prices are associated with which census blocks.

D. *All Providers must respond to the following:*

II.D.1. Describe your company's short term and long-range promotional and advertising strategies and objectives for winning new—or retaining current—customers for *Dedicated Services*. In your description, please describe the size (e.g., companies with 500 employees or less, etc.), geographic scope (e.g., national, southeast, Chicago, etc.), and type of customers your company targets or plans to target through these strategies.

II.D.2. Identify where your company's policies are recorded on the following *Dedicated Service*-related processes: (a) Initiation of service; (b) service Upgrades; and (c) service

Disconnections. For instance, identify where your company records recurring and non-recurring charges associated with the processes listed above. If recorded in a *Tariff*, provide the specific *Tariff* section(s). If these policies are recorded in documents other than *Tariffs*, list those documents and state whether they are publicly available. If they are publicly available, explain how to find them. For documents that are not publicly available, state whether they are conveyed to customers orally or in writing.

E. *Purchasers that are mobile wireless service providers must respond to the following:*

II.E.1. How many cell sites do you have on your network?

II.E.2. Provide the information requested below for each cell site on your network as of December 31, 2010 and as of December 31, 2012.

- a. A unique ID for the cell site;
- b. The actual situs address of the cell site (i.e., land where the cell site is located) if the cell site is located in or on a building;
- c. The geocode for the cell site (i.e., latitude and longitude);
- d. The CLLI code of the incumbent LEC wire center that serves the cell site, where applicable;
- e. Whether the cell site is in or on a building, is a free-standing cell site, or is on some other type of man-made structure, e.g., a water tower, billboard, etc.;
- f. If the cell site is served by a *CBDS*, indicate the equivalent number of *DS1s* used;
- g. If the cell site is served by a *PBDS*, indicate the total bandwidth of the circuit or circuits in Mbps;
- h. If the cell site is served by a wireless *Connection*, indicate the total bandwidth of the circuit or circuits in Mbps;
- i. The name of the *Provider(s)* that supplies your *Connection* to the cell site; and
- j. If you self-provide a *Connection* to the cell site, the provisioned bandwidth of that self-provided *Connection*.

Expenditures Information

II.E.3. What were your expenditures, i.e., dollar volume of purchases, on *Dedicated Services* for 2010 and 2012? For each year, report expenditures in total, separately for *CBDS* and *PBDS* purchases, and separately for purchases from *ILECs* and *Competitive Providers*.

II.E.4. Provide your company's expenditures, i.e., dollar volume of purchases, for *DS1s*, *DS3s*, and/or *PBDS* purchased from *ILECs* pursuant to a *Tariff* in 2010 and in 2012. For each of the following categories, report

expenditures for each year in total and separately for *DS1s*, *DS3s* and *PBDS*:

- a. All *DS1s*, *DS3s*, and *PBDS*;
- b. *DS1s*, *DS3s*, and *PBDS* purchased at *One Month Term Only Rates*;
- c. *DS1s*, *DS3s*, and *PBDS* purchased under *Tariff Plans*;
- d. *DS1s*, *DS3s*, and *PBDS* purchased under *Contract-Based Tariffs*;
- e. *DS1s*, *DS3s*, and *PBDS* purchased under *Tariff Plans* that contained a *Term Commitment* but not a *Volume Commitment*;
- f. *DS1s*, *DS3s*, and *PBDS* purchased under *Tariff Plans* that contained a *Prior Purchase-Based Commitment*;
- i. Of the total (and for the separate *DS1*, *DS3*, and *PBDS* totals where applicable), indicate the average discount from the *One Month Term Only Rate* incorporated in the expenditures.

For purposes of calculating the percentages described above, an example would be a *Tariff Plan* that requires a purchase of 20 *DS1s* and 10 *DS3s* and generates expenditures of \$2,000 for calendar-year 2012. If those same circuits were purchased at *One Month Term Only Rates* of \$100 per *DS1* and \$200 per *DS3*, then total expenditures would instead be \$4,000. Since the *Tariff Plan* under this scenario generated 50% of the expenditures that would be generated from *One Month Term Only Rates*, the discount would be 50%.

g. *DS1s*, *DS3s*, and *PBDS* purchased under *Contract-Based Tariffs* that contained a *Term Commitment* but not a *Volume Commitment*; and

h. *DS1s*, *DS3s*, and *PBDS* purchased under *Contract-Based Tariffs* that contained a *Prior Purchase-Based Commitment*;

i. Of the total (and for the separate *DS1* and *DS3* totals if available), indicate the average discount from the *One Month Term Only Rate* incorporated in the expenditures.

An example of how to calculate this percentage can be found at question II.E.4.f.i.

i. What percentage of your expenditures in 2012 were subject to a *Term Commitment* of five or more years?

II.E.5. What were your expenditures, i.e., dollar volume of purchases, on *DS1s*, *DS3s*, and/or *PBDS* purchased from *Competitive Providers* pursuant to a *Tariff* in 2010 and in 2012? Report expenditures in total and separately for *DS1s*, *DS3s* and *PBDS*, as applicable, for the following categories for each year:

- a. All *DS1s*, *DS3s*, and *PBDS*;
- b. *DS1s*, *DS3s*, and *PBDS* purchased at *One Month Term Only Rates*;
- c. *DS1s*, *DS3s*, and *PBDS* purchased under *Tariffs* that contained a *Term*

Commitment but not a *Volume Commitment*;

d. *DS1s*, *DS3s*, and *PBDS* purchased under *Tariffs* that contained a *Prior Purchase-Based Commitment*;

i. Of the total (and for the separate *DS1*, *DS3*, and *PBDS* totals where applicable), indicate the average discount from the *One Month Term Only Rate* incorporated in the expenditures.

An example of how to calculate this percentage can be found at question II.E.4.f.i

e. What percentage of your expenditures in 2012 were subject to a *Term Commitment* of five or more years?

II.E.6. What were your expenditures, *i.e.*, dollar volume of purchases, on *DS1s*, *DS3s*, and/or *PBDS* purchased from *ILECs* and *Competitive Providers* pursuant to an agreement (not a *Tariff*) in 2010 and in 2012? Report expenditures in total, separately for purchases from *ILECs* and *Competitive Providers*, and separately for *DS1s*, *DS3s* and *PBDS*, as applicable, for the following categories for each year:

a. All *DS1s*, *DS3s*, and *PBDS*;
b. *DS1s*, *DS3s*, and *PBDS* purchased at a non-discounted rate;
c. *DS1s*, *DS3s*, and *PBDS* purchased under a non-tariffed agreement that contained a *Term Commitment* but not a *Volume Commitment*;

d. *DS1s*, *DS3s*, and *PBDS* purchased under a non-tariffed agreement that contained a *Prior Purchase-Based Commitment*;

i. Of the total (and for the separate *DS1*, *DS3*, and *PBDS* totals where applicable), indicate the average discount from the non-discounted rate incorporated in the expenditures.

An example of how to calculate this percentage can be found at question II.E.4.f.i

II.E.7. What were your expenditures, *i.e.*, dollar volume of purchases, on *PBDS* purchased under a *Tariff* in 2010 and in 2012?

a. Separately for purchases from *ILECs* and *Competitive Providers* for the following service bandwidth categories:

i. less than or equal to 1.5 Mbps;
ii. greater than 1.5, but less than or equal to 50 Mbps;
iii. greater than 50, but less than or equal to 100 Mbps;
iv. greater than 100, but less than or equal to 1 Gbps; or
v. greater than 1 Gbps.

II.E.8. What were your expenditures, *i.e.*, dollar volume of purchases, on non-tariffed *PBDS* in 2010 and in 2012?

a. Separately for purchases from *ILECs* and *Competitive Providers* for the following service bandwidth categories:

i. less than or equal to 1.5 Mbps;
ii. greater than 1.5, but less than or equal to 50 Mbps;
iii. greater than 50, but less than or equal to 100 Mbps;
iv. greater than 100, but less than or equal to 1 Gbps; or
v. greater than 1 Gbps.

Terms and Conditions Information

II.E.9. Explain whether the terms and conditions of any *Tariff* or contract to which you are a party for the purchase of *Dedicated Services* or the policies of any of your *Providers* constrain your ability to:

a. Decrease your purchases from your current *Provider(s)*;

b. Purchase services from another *Provider* currently operating in the geographic areas in which you purchase services;

c. Purchase non-tariffed services, such as Ethernet services, from your current *Provider* of tariffed *DS1*, *DS3*, and/or *PBDS* services or from other *Providers* operating in the geographic areas in which you purchase tariffed services;

d. Contract with *Providers* that are considering entering the geographic areas in which you purchase tariffed services;

e. Move circuits, for example, moving your *DS1* and/or *DS3 End-User Channel Terminations* to connect to another *Transport Provider*; or

f. Otherwise obtain *Dedicated Services* or change *Providers*.

Relevant terms and conditions, among others, may include: (a) Early termination penalties; (b) shortfall provisions; (c) overlapping/supplemental discounts plans with different termination dates; (d) requirements to include all services, including new facilities, under a *Tariff Plan* or *Contract-Based Tariff*; or (e) requiring purchases in multiple geographic areas to obtain maximum discounts.

In your answer, highlight contracts where you contend that a term or condition is a particularly onerous constraint by comparison with more typical provisions in other contracts. Also, at a minimum, list: (a) The *Provider* and indicate whether the *Provider* is an *ILEC* or a *Competitive Provider*; (b) a description of the term or condition; (c) the geographic area in which the services are provided; (d) the name of the vendor providing the service; and (e) where relevant, the specific *Tariff* number(s) and section(s), or if the policy at issue is recorded in documents other than *Tariffs*, list those documents and how you obtained them.

If you allege that a term, condition, or *Provider's* policy negatively affects your

ability to obtain *Dedicated Services*, state whether you have brought a complaint to the Commission, a state commission or court about this issue and the outcome. If you have not brought a complaint, explain why not.

II.E.10. If you purchase, or purchased, *Transport Service* and *End User Channel Terminations* from the same *Provider*, explain your experience with changing *Transport Service* from one *Provider* to another between January 1, 2010 and December 31, 2012 while keeping your *End User Channel Terminations* with the original *Provider*. Where appropriate, identify the *Provider(s)* in your responses below and indicate whether they are an *ILEC* or a *Competitive Provider*.

a. How many times did you change *Transport Service* while keeping your *End User Channel Terminations* with the original *Provider*? An estimate of the number of circuits moved to a new *Transport Provider*, or the number of such changes requested for each year, is sufficient.

b. What was the length of time, on average, it took for the original *Provider* to complete the process of connecting your last-mile *End-user Channel Terminations* to another *Transport Provider*? An estimate is sufficient.

c. Were you given the opportunity to negotiate the amount of time it would take to complete the process of connecting your *End User Channel Terminations* to another *Transport Provider* on a case-by-case basis? In answering this question, also describe and provide citations to the *ILEC's* or *Competitive Provider's* policies, rules or, where relevant, *Tariff* provisions, if known, explaining the transition process.

d. How did connecting to a new *Transport Provider* impact the rate you paid for the *End User Channel Terminations* you continued to purchase from the original *Provider*?

e. Did connecting to a new *Transport Provider* typically impact the rate you continued to pay for *Transport Service* from the original *Provider* while the change in *Transport Providers* remained pending? If so, how? What was the average percentage change in rates? For example, did you ever pay a *One Month Term Only Rate* during that time?

II.E.11. Describe any circumstances since January 1, 2010, in which you have purchased circuits pursuant to a *Tariff*, solely for the purpose of meeting a *Prior Purchase-Based Commitment* required for a discount or *Non-Rate Benefit* from your *Provider* (*i.e.*, you would not have purchased the circuit but for the requirement that you meet a *Volume Commitment* required for a

discount or *Non-Rate Benefit* from your *Provider*). In your description, provide at least one example, which at a minimum, lists:

a. The name of the *Provider* providing the circuits at issue;

b. A description of the *Prior Purchase-Based Commitment*;

c. The *Tariff* and section number(s) of the specific terms and conditions described;

d. The number of circuits you would not have purchased but for the *Prior Purchase-Based Commitment* requirement to receive a discount or *Non-Rate Benefit*;

i. Of the circuits reported in II.E.11.d, how many did you not use at all?

e. A comparison of the dollar amount of the unnecessary circuit(s) purchased versus the dollar amount of penalties your company would have had to pay under the *Prior Purchase-Based Commitment* had it not purchased and/or maintained the circuit(s), and a description of how that comparison was calculated.

f. How many circuits were activated under the identified *Tariff* plan and not used when you initially entered into the plan? What were these unused circuits as a percent of the total circuits currently purchased under this *Tariff* plan? Indicate the percent of the total circuits currently purchased under this *Tariff* plan that exceed your *Prior Purchase-Based Commitment*.

g. For the *Prior Purchase-Based Commitment*, indicate whether you are able to buy any *DS1s* or *DS3s* from the *Provider* outside of the identified *Tariff* plan, or are you required to make all purchases from the *Provider* pursuant to the identified *Tariff* plan?

II.E.12. For each year for the past five years, state the number of times and in what geographic area(s) you have switched from purchasing *End-User Channel Terminations* from one *Provider* of *Dedicated Services* to another.

II.E.13. Explain the circumstances since January 1, 2010 under which you have paid *One Month Term Only Rates* for *DS1*, *DS3*, and/or *PBDS* services and the impact, if any, it had on your business and your customers. In your response, indicate any general rules you follow, if any, concerning the maximum number of circuits and maximum amount of time you will pay *One Month Term Only Rates*, and your business rationale for any such rules.

II.E.14. Separately list all *Tariffs* under which your company purchases *DS1s*, *DS3s*, and/or *PBDS* and provide the information requested below for each plan.

a. This plan is a:

☐ *Tariff Plan* ☐ *Contract-Based Tariff* (select one)

b. Plan name:

c. *Provider* name:

d. *Tariff* and Section Number(s):

e. *Tariff* type:

☐ Interstate ☐ Intrastate

f. This plan contains:

☐ *Term Commitment(s)* ☐ *Volume Commitment(s)*

☐ *Non-Rate Benefit* option(s) (select all that apply)

g. If the plan contains *Non-Rate Benefits*, identify the *Non-Rate Benefits* that were relevant to your decision to purchase services under this plan.

h. This plan can be applied to the purchase of:

☐ *DS1* services ☐ *DS3* services
☐ *PBDS* ☐ Other (select all that apply)

i. In what geographic areas do you purchase *DS1s*, *DS3s*, and/or *PBDS* under this plan, e.g., nationwide, certain states, or certain *MSAs*?

j. To receive a discount or *Non-Rate Benefit* under this plan, does your company make a *Prior Purchase-Based Commitment*?

☐ Yes ☐ No

k. If this is an *ILEC* plan, do *DS1*, *DS3*, or tariffed *PBDS* purchases your company makes outside the study area(s) of the *ILEC* (e.g., purchases from an *Affiliated Company* of the *ILEC* that is providing out-of-region service as a *CLEC*) count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?

☐ Yes ☐ No ☐ N/A (no *Volume Commitment*, not an *ILEC* plan)

i. If you answered yes, in what geographic areas outside the study area(s) of the *ILEC*, do you purchase these *DS1s*, *DS3s* and/or tariffed *PBDS*?

ii. For each geographic area identified, state whether your company would have purchased from a different *Provider*, if at all, had it not been for the discounts or *Non-Rate Benefits* received under this plan? In your response, indicate whether the *Provider* that you would have purchased from has *Connections* serving that geographic area and the *Provider's* name.

l. If this is an *ILEC* plan, do *DS1*, *DS3*, and/or tariffed *PBDS* purchases your company makes from the *ILEC* in price cap areas where the Commission has not granted the *ILEC* pricing flexibility count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?

☐ Yes ☐ No ☐ N/A (no *Volume Commitment*, not an *ILEC* plan)

i. If you answered yes, then identify the price cap areas where you purchase *DS1s*, *DS3s*, and/or tariffed *PBDS* that count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?

m. If this is an *ILEC* plan, do *DS1*, *DS3* and/or tariffed *PBDS* purchases your company makes from the *ILEC* in areas where the Commission has granted *Phase I Pricing Flexibility* count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?

☐ Yes ☐ No ☐ N/A (no *Volume Commitment*, not an *ILEC* plan)

i. If you answered yes, in what geographic areas subject to pricing flexibility do you purchase *DS1s*, *DS3s*, and/or tariffed *PBDS* that count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?

ii. For each geographic area identified, state whether your company would have purchased from a different *Provider*, if at all, had it not been for the requirements of the *Tariff Plan*? In your response, indicate whether the *Provider* that you would have purchased from has *Connections* serving that geographic area and the *Provider's* name.

n. If this is an *ILEC* plan, do *DS1*, *DS3* and/or tariffed *PBDS* purchases your company makes from the *ILEC* in areas where the Commission has granted *Phase II Pricing Flexibility* count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?

☐ Yes ☐ No ☐ N/A (no *Volume Commitment*, not an *ILEC* plan)

i. If you answered yes, in what geographic areas subject to pricing flexibility do you purchase *DS1s*, *DS3s*, and/or tariffed *PBDS* that count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?

ii. For each geographic area identified, state whether your company would have purchased from a different *Provider*, if at all, had it not been for the requirements of the *Tariff Plan*? In your response, indicate whether the *Provider* that you would have purchased from has *Connections* serving that geographic area and the *Provider's* name.

o. If this is an *ILEC* plan, do non-tariffed *PBDS* purchases your company makes from this *ILEC* count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?

☐ Yes ☐ No ☐ N/A (no *Volume Commitment*, not an *ILEC* plan)

i. If you answered yes, in what geographic areas do you purchase non-

tariffed *PBDS* that counts towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan.

ii. For each geographic area identified, state whether your company would have purchased non-tariffed *PBDS* from a different *Provider*, if at all, had it not been for the requirements of the plan? In your response, indicate whether the *Provider* that you would have purchased from has *Connections* serving that geographic area and the *Provider's* name.

p. If this is an *ILEC* plan, do purchases you make for services other than *DS1s*, *DS3s*, and *PBDS* from this *ILEC* count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?

☐ Yes ☐ No ☐ N/A (no *Volume Commitment*, not an *ILEC* plan)

i. If you answered yes, identify the other services purchased and the geographic areas where you purchase these services that count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan.

ii. For each geographic area identified, state whether your company would have purchased those other services from a different *Provider*, had it not been for the requirements of the plan? In your response, indicate whether the *Provider* that you would have purchased from has *Connections* serving that geographic area and the *Provider's* name.

q. Is the discount or *Non-Rate Benefit* available under this plan conditioned on the customer limiting its purchase of *UNEs*, e.g., the customer must keep its purchase of *UNEs* below a certain percentage of the customer's total spend? If yes, then provide additional details about the condition.

II.E.15. Indicate whether you have any non-tariffed agreement with an *ILEC* that, directly or indirectly, provides a discount or a *Non-Rate Benefit* on the purchase of tariffed *DS1*, *DS3*, and/or *PBDS* services, restricts your ability to obtain *UNEs*, or negatively affects your ability to purchase *Dedicated Services*. If so, identify each agreement, including the parties to the agreement, the effective date, end date, and a summary of the relevant provisions.

F. *Purchasers that are not mobile wireless service providers must respond to the following:*

II.F.1. What is the principal nature of your business, e.g., are you a CLEC, cable system operator, fixed wireless service provider, wireless Internet service provider, interconnected VoIP service provider, etc.?

Expenditures Information

II.F.2. What were your expenditures, i.e., dollar volume of purchases, on *Dedicated Services* for 2010 and 2012? For each year, report expenditures in total, separately for *CBDS* and *PBDS* purchases, and separately for purchases from *ILECs* and *Competitive Providers*.

II.F.3. Provide your company's expenditures, i.e., dollar volume of purchases, for *DS1s*, *DS3s*, and/or *PBDS* purchased from *ILECs* pursuant to a *Tariff* in 2010 and in 2012. For each of the following categories, report expenditures for each year in total and separately for *DS1s*, *DS3s* and *PBDS*:

a. All *DS1s*, *DS3s*, and *PBDS*;
b. *DS1s*, *DS3s*, and *PBDS* purchased at *One Month Term Only Rates*;
c. *DS1s*, *DS3s*, and *PBDS* purchased under *Tariff Plans*;
d. *DS1s*, *DS3s*, and *PBDS* purchased under *Contract-Based Tariffs*;
e. *DS1s*, *DS3s*, and *PBDS* purchased under *Tariff Plans* that contained a *Term Commitment* but not a *Volume Commitment*;

f. *DS1s*, *DS3s*, and *PBDS* purchased under *Tariff Plans* that contained a *Prior Purchase-Based Commitment*;

i. Of the total (and for the separate *DS1*, *DS3*, and *PBDS* totals where applicable), indicate the average discount from the *One Month Term Only Rate* incorporated in the expenditures.

For purposes of calculating the percentages described above, an example would be a *Tariff Plan* that requires a purchase of 20 *DS1s* and 10 *DS3s* and generates expenditures of \$2,000 for calendar-year 2012. If those same circuits were purchased at *One Month Term Only Rates* of \$100 per *DS1* and \$200 per *DS3*, then total expenditures would instead be \$4,000. Since the *Tariff Plan* under this scenario generated 50% of the expenditures that would be generated from *One Month Term Only Rates*, the discount would be 50%.

g. *DS1s*, *DS3s*, and *PBDS* purchased under *Contract-Based Tariffs* that contained a *Term Commitment* but not a *Volume Commitment*; and

h. *DS1s*, *DS3s*, and *PBDS* purchased under *Contract-Based Tariffs* that contained a *Prior Purchase-Based Commitment*;

i. Of the total (and for the separate *DS1* and *DS3* totals if available), indicate the average discount from the *One Month Term Only Rate* incorporated in the expenditures.

An example of how to calculate this percentage can be found at question II.F.3.f.i.

i. What percentage of your expenditures in 2012 were subject to a

Term Commitment of five or more years?

II.F.4. What were your expenditures, i.e., dollar volume of purchases, on *DS1s*, *DS3s*, and/or *PBDS* purchased from *Competitive Providers* pursuant to a *Tariff* in 2010 and in 2012? Report expenditures in total and separately for *DS1s*, *DS3s* and *PBDS*, as applicable, for the following categories for each year:

a. All *DS1s*, *DS3s*, and *PBDS*;
b. *DS1s*, *DS3s*, and *PBDS* purchased at *One Month Term Only Rates*;

c. *DS1s*, *DS3s*, and *PBDS* purchased under *Tariffs* that contained a *Term Commitment* but not a *Volume Commitment*;

d. *DS1s*, *DS3s*, and *PBDS* purchased under *Tariffs* that contained a *Prior Purchase-Based Commitment*;

i. Of the total (and for the separate *DS1*, *DS3*, and *PBDS* totals where applicable), indicate the average discount from the *One Month Term Only Rate* incorporated in the expenditures.

An example of how to calculate this percentage can be found at question II.F.3.f.i.

e. What percentage of your expenditures in 2012 were subject to a *Term Commitment* of five or more years?

II.F.5. What were your expenditures, i.e., dollar volume of purchases, on *DS1s*, *DS3s*, and/or *PBDS* purchased from *ILECs* and *Competitive Providers* pursuant to an agreement (not a *Tariff*) in 2010 and in 2012? Report expenditures in total, separately for purchases from *ILECs* and *Competitive Providers*, and separately for *DS1s*, *DS3s* and *PBDS*, as applicable, for the following categories for each year:

a. All *DS1s*, *DS3s*, and *PBDS*;
b. *DS1s*, *DS3s*, and *PBDS* purchased at a non-discounted rate;

c. *DS1s*, *DS3s*, and *PBDS* purchased under a non-tariffed agreement that contained a *Term Commitment* but not a *Volume Commitment*;

d. *DS1s*, *DS3s*, and *PBDS* purchased under a non-tariffed agreement that contained a *Prior Purchase-Based Commitment*;

i. Of the total (and for the separate *DS1*, *DS3*, and *PBDS* totals where applicable), indicate the average discount from the non-discounted rate incorporated in the expenditures.

An example of how to calculate this percentage can be found at question II.F.3.f.i.

II.F.6. What were your expenditures, i.e., dollar volume of purchases, on *PBDS* purchased under a *Tariff* in 2010 and in 2012?

a. Separately for purchases from *ILECs* and *Competitive Providers* for the following service bandwidth categories:

- i. less than or equal to 1.5 Mbps;
- ii. greater than 1.5, but less than or equal to 50 Mbps;
- iii. greater than 50, but less than or equal to 100 Mbps;
- iv. greater than 100, but less than or equal to 1 Gbps; or
- v. greater than 1 Gbps.

II.F.7. What were your expenditures, *i.e.*, dollar volume of purchases, on non-tariffed *PBDS* in 2010 and in 2012?

a. Separately for purchases from *ILECs* and *Competitive Providers* for the following service bandwidth categories:

- i. less than or equal to 1.5 Mbps;
- ii. greater than 1.5, but less than or equal to 50 Mbps;
- iii. greater than 50, but less than or equal to 100 Mbps;
- iv. greater than 100, but less than or equal to 1 Gbps; or
- v. greater than 1 Gbps.

Terms and Conditions Information

II.F.8. Explain whether the terms and conditions of any *Tariff* or contract to which you are a party for the purchase of *Dedicated Services* or the policies of any of your *Providers* constrain your ability to:

- a. Decrease your purchases from your current *Provider(s)*;
- b. Purchase services from another *Provider* currently operating in the geographic areas in which you purchase services;
- c. Purchase non-tariffed services, such as Ethernet services, from your current *Provider* of tariffed *DS1*, *DS3*, and/or *PBDS* services or from other *Providers* operating in the geographic areas in which you purchase tariffed services;
- d. Contract with *Providers* that are considering entering the geographic areas in which you purchase tariffed services;
- e. Move circuits, for example, moving your *DS1* and/or *DS3 End-User Channel Terminations* to connect to another *Transport Provider*; or
- f. Otherwise obtain *Dedicated Services* or change *Providers*.

Relevant terms and conditions, among others, may include: (a) Early termination penalties; (b) shortfall provisions; (c) overlapping/supplemental discounts plans with different termination dates; (d) requirements to include all services, including new facilities, under a *Tariff Plan* or *Contract-Based Tariff*; or (e) requiring purchases in multiple geographic areas to obtain maximum discounts. In your answer, highlight contracts where you contend that a term or condition is a particularly onerous constraint by comparison with more typical provisions in other contracts. Also, at a minimum, list: (a) The

Provider and indicate whether the *Provider* is an *ILEC* or a *Competitive Provider*; (b) a description of the term or condition; (c) the geographic area in which the services are provided; (d) the name of the vendor providing the service; and (e) where relevant, the specific *Tariff* number(s) and section(s), or if the policy at issue is recorded in documents other than *Tariffs*, list those documents and how you obtained them.

If you allege that a term, condition, or *Provider's* policy negatively affects your ability to obtain *Dedicated Services*, state whether you have brought a complaint to the Commission, a state commission or court about this issue and the outcome. If you have not brought a complaint, explain why not.

II.F.9. If you purchase, or purchased, *Transport Service* and *End User Channel Terminations* from the same *Provider*, explain your experience with changing *Transport Service* from one *Provider* to another between January 1, 2010 and December 31, 2012 while keeping your *End User Channel Terminations* with the original *Provider*. Where appropriate, identify the *Provider(s)* in your responses below and indicate whether they are an *ILEC* or a *Competitive Provider*.

a. How many times did you change *Transport Service* while keeping your *End User Channel Terminations* with the original *Provider*? An estimate of the number of circuits moved to a new *Transport Provider*, or the number of such changes requested for each year, is sufficient.

b. What was the length of time, on average, it took for the original *Provider* to complete the process of connecting your last-mile *End-user Channel Terminations* to another *Transport Provider*? An estimate is sufficient.

c. Were you given the opportunity to negotiate the amount of time it would take to complete the process of connecting your *End User Channel Terminations* to another *Transport Provider* on a case-by-case basis? In answering this question, also describe and provide citations to the *ILEC's* or *Competitive Provider's* policies, rules or, where relevant, *Tariff* provisions, if known, explaining the transition process.

d. How did connecting to a new *Transport Provider* impact the rate you paid for the *End User Channel Terminations* you continued to purchase from the original *Provider*?

e. Did connecting to a new *Transport Provider* typically impact the rate you continued to pay for *Transport Service* from the original *Provider* while the change in *Transport Providers* remained pending? If so, how? What was the

average percentage change in rates? For example, did you ever pay a *One Month Term Only Rate* during that time?

II.F.10. Describe any circumstances since January 1, 2010, in which you have purchased circuits pursuant to a *Tariff*, solely for the purpose of meeting a *Prior Purchase-Based Commitment* required for a discount or *Non-Rate Benefit* from your *Provider* (*i.e.*, you would not have purchased the circuit but for the requirement that you meet a *Volume Commitment* required for a discount or *Non-Rate Benefit* from your *Provider*). In your description, provide at least one example, which at a minimum, lists:

- a. The name of the *Provider* providing the circuits at issue;
- b. A description of the *Prior Purchase-Based Commitment*;
- c. The *Tariff* and section number(s) of the specific terms and conditions described;
- d. The number of circuits you would not have purchased but for the *Prior Purchase-Based Commitment* requirement to receive a discount or *Non-Rate Benefit*;

i. Of the circuits reported in II.F.10.d, how many did you not use at all?

e. A comparison of the dollar amount of the unnecessary circuit(s) purchased versus the dollar amount of penalties your company would have had to pay under the *Prior Purchase-Based Commitment* had it not purchased and/or maintained the circuit(s), and a description of how that comparison was calculated.

f. How many circuits were activated under the identified *Tariff* plan and not used when you initially entered into the plan? What were these unused circuits as a percent of the total circuits currently purchased under this *Tariff* plan? Indicate the percent of the total circuits currently purchased under this *Tariff* plan that exceed your *Prior Purchase-Based Commitment*.

g. For the *Prior Purchase-Based Commitment*, indicate whether you are able to buy any *DS1s* or *DS3s* from the *Provider* outside of the identified *Tariff* plan, or are you required to make all purchases from the *Provider* pursuant to the identified *Tariff* plan?

II.F.11. For each year for the past five years, state the number of times and in what geographic area(s) you have switched from purchasing *End-User Channel Terminations* from one *Provider* of *Dedicated Services* to another.

II.F.12. Explain the circumstances since January 1, 2010 under which you have paid *One Month Term Only Rates* for *DS1*, *DS3*, and/or *PBDS* services and the impact, if any, it had on your

business and your customers. In your response, indicate any general rules you follow, if any, concerning the maximum number of circuits and maximum amount of time you will pay *One Month Term Only Rates*, and your business rationale for any such rules.

II.F.13. Separately list all *Tariffs* under which your company purchases *DS1s*, *DS3s*, and/or *PBDS* and provide the information requested below for each plan.

a. This plan is a:

☐ *Tariff Plan* ☐ *Contract-Based Tariff* (select one)

b. Plan name:

c. *Provider* name:

d. *Tariff* and Section Number(s):

e. *Tariff* type:

☐ Interstate ☐ Intrastate

f. This plan contains:

☐ *Term Commitment(s)* ☐ *Volume Commitment(s)*

☐ *Non-Rate Benefit* option(s) (select all that apply)

g. If the plan contains *Non-Rate Benefits*, identify the *Non-Rate Benefits* that were relevant to your decision to purchase services under this plan.

h. This plan can be applied to the purchase of:

☐ *DS1* services ☐ *DS3* services ☐ *PBDS* ☐ Other (select all that apply)

i. In what geographic areas do you purchase *DS1s*, *DS3s*, and/or *PBDS* under this plan, e.g., nationwide, certain states, or certain *MSAs*?

j. To receive a discount or *Non-Rate Benefit* under this plan, does your company make a *Prior Purchase-Based Commitment*?

☐ Yes ☐ No

k. If this is an *ILEC* plan, do *DS1*, *DS3* or tariffed *PBDS* purchases your company makes outside the study area(s) of the *ILEC* (e.g., purchases from an *Affiliated Company* of the *ILEC* that is providing out-of-region service as a *CLEC*) count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?

☐ Yes ☐ No ☐ N/A (no *Volume Commitment*, not an *ILEC* plan)

i. If you answered yes, in what geographic areas outside the study area(s) of the *ILEC*, do you purchase these *DS1s*, *DS3s*, and/or tariffed *PBDS*?

ii. For each geographic area identified, state whether your company would have purchased from a different *Provider*, if at all, had it not been for the discounts or *Non-Rate Benefits* received under this plan? In your response, indicate whether the *Provider* that you would have purchased from has

Connections serving that geographic area and the *Provider's* name.

l. If this is an *ILEC* plan, do *DS1*, *DS3*, and/or tariffed *PBDS* purchases your company makes from the *ILEC* in price cap areas where the Commission has not granted the *ILEC* pricing flexibility count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?

☐ Yes ☐ No ☐ N/A (no *Volume Commitment*, not an *ILEC* plan)

i. If you answered yes, then identify the price cap areas where you purchase *DS1s*, *DS3s*, and/or tariffed *PBDS* that count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?

m. If this is an *ILEC* plan, do *DS1*, *DS3*, and/or tariffed *PBDS* purchases your company makes from the *ILEC* in areas where the Commission has granted *Phase I Pricing Flexibility* count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?

☐ Yes ☐ No ☐ N/A (no *Volume Commitment*, not an *ILEC* plan)

i. If you answered yes, in what geographic areas subject to pricing flexibility do you purchase *DS1s*, *DS3s*, and/or tariffed *PBDS* that count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?

ii. For each geographic area identified, state whether your company would have purchased from a different *Provider*, if at all, had it not been for the requirements of the *Tariff Plan*? In your response, indicate whether the *Provider* that you would have purchased from has *Connections* serving that geographic area and the *Provider's* name.

n. If this is an *ILEC* plan, do *DS1*, *DS3*, and/or tariffed *PBDS* purchases your company makes from the *ILEC* in areas where the Commission has granted *Phase II Pricing Flexibility* count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?

☐ Yes ☐ No ☐ N/A (no *Volume Commitment*, not an *ILEC* plan)

i. If you answered yes, in what geographic areas subject to pricing flexibility do you purchase *DS1s*, *DS3s*, and/or tariffed *PBDS* that count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?

ii. For each geographic area identified, state whether your company would have purchased from a different *Provider*, if at all, had it not been for the requirements of the *Tariff Plan*? In your response, indicate whether the *Provider*

that you would have purchased from has *Connections* serving that geographic area and the *Provider's* name.

o. If this is an *ILEC* plan, do non-tariffed *PBDS* purchases your company makes from this *ILEC* count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?

☐ Yes ☐ No ☐ N/A (no *Volume Commitment*, not an *ILEC* plan)

i. If you answered yes, in what geographic areas do you purchase non-tariffed *PBDS* that counts towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan.

ii. For each geographic area identified, state whether your company would have purchased non-tariffed *PBDS* from a different *Provider*, if at all, had it not been for the requirements of the plan? In your response, indicate whether the *Provider* that you would have purchased from has *Connections* serving that geographic area and the *Provider's* name.

p. If this is an *ILEC* plan, do purchases you make for services other than *DS1s*, *DS3s*, and *PBDS* from this *ILEC* count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?

☐ Yes ☐ No ☐ N/A (no *Volume Commitment*, not an *ILEC* plan)

i. If you answered yes, identify the other services purchased and the geographic areas where you purchase these services that count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan.

ii. For each geographic area identified, state whether your company would have purchased those other services from a different *Provider*, had it not been for the requirements of the plan? In your response, indicate whether the *Provider* that you would have purchased from has *Connections* serving that geographic area and the *Provider's* name.

q. Is the discount or *Non-Rate Benefit* available under this plan conditioned on the customer limiting its purchase of *UNEs*, e.g., the customer must keep its purchase of *UNEs* below a certain percentage of the customer's total spend? If yes, then provide additional details about the condition.

II.F.14. Indicate whether you have any non-tariffed agreement with an *ILEC* that, directly or indirectly, provides a discount or a *Non-Rate Benefit* on the purchase of tariffed *DS1*, *DS3*, and/or *PBDS* services, restricts your ability to obtain *UNEs*, or negatively affects your ability to purchase *Dedicated Services*.

If so, identify each agreement, including the parties to the agreement, the effective date, end date, and a summary of the relevant provisions.

G. *Non-Providers, Non-Purchasers, and other entities not covered by the scope of this inquiry but that were instructed to respond to this data collection must respond to the following:*

II.G.1. If you must respond to this data collection because you were required to file the FCC Form 477 to report the provision of "broadband connections to end user locations" for Year 2012 but are not (a) a *Provider* or a *Purchaser* as defined in this data collection or (b) an entity that provides *Best Efforts Business Broadband Internet Access Services* to 15,000 or more customers or 1,500 or more business broadband customers in areas where the *ILEC* is subject to price cap regulation, then indicate as such below and complete the certification accompanying this data collection.

☐ I am not a *Provider*.

☐ I am not a *Purchaser*.

☐ I do not provide *Best Efforts Business Broadband Internet Access Services* to 15,000 or more customers or 1,500 or more business broadband

customers in areas where the *ILEC* is subject to price cap regulation.
(select all that apply)

CERTIFICATION

I have examined the response and certify that, to the best of my knowledge, all statements of fact, data, and information contained therein are true and correct.

Signature: _____

Printed Name: _____

Title: _____

Date: _____

* Respondents are reminded that failure to comply with these data reporting requirements may subject them to monetary forfeitures of up to \$150,000 for each violation or each day of a continuing violation, up to a maximum of \$1,500,000 for any single act or failure to act that is a continuing violation. False statements or misrepresentations to the Commission may be punishable by fine or imprisonment under Title 18 of the U.S. Code.

Ordering Clauses

Accordingly, it is ordered pursuant to sections 1, 4(i), 4(j), 5, 201–205, 211, 215, 218, 219, 303(r), 332, 403, and 503

of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 155, 201, 202, 203, 204, 205, 211, 215, 218, 219, 303(r), 332, 403, 503, and section 706 of the Telecommunications Act of 1996, 47 U.S.C. 1302, §§ 0.91 and 0.291 of the Commission's rules, 47 CFR 0.91 and 0.291, and the authority delegated to the Bureau in the *Special Access Data Collection Order*, that this Report and Order is *adopted*.

It is further ordered that, pursuant to § 1.102(b)(1) of the Commission's rules, 47 CFR 1.102(b)(1), this Report and Order *shall be* effective December 9, 2013. The information collection and recordkeeping requirements contained in the *Special Access Data Collection Order*, 78 FR 2571, January 11, 2013, as implemented by this Report and Order, are not effective until the Office of Management and Budget approves them and the Commission has published a notice in the **Federal Register** announcing the effective date of the information collection.

Federal Communications Commission.

Julie A. Veach,

Chief, Wireline Competition Bureau.

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