

**Congress of the United States**  
**Washington, DC 20515**

May 23, 2007

The Honorable Kevin J. Martin  
Chairman  
The Honorable Michael J. Copps  
Commissioner  
The Honorable Jonathan S. Adelstein  
Commissioner  
The Honorable Deborah Taylor Tate  
Commissioner  
The Honorable Robert M. McDowell  
Commissioner  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

Dear Chairman Martin, Commissioner Copps, Commissioner Adelstein, Commissioner Tate, and Commissioner McDowell:

I am writing with respect to the upcoming auction for licenses in the 700 Megahertz band of spectrum, which holds the potential to spur additional broadband competition and innovation. In addition, the spectrum allocated to the public safety community in adjacent bands may provide countless communities with a new opportunity to improve first responders' ability to communicate in times of crisis through the deployment of wireless broadband facilities.

I am concerned, however, that the upcoming auction may not deliver these important benefits on a timely and ubiquitous basis due to an apparent failure in the market for "special access" services. As you well know, special access services are "last mile" connections that are essential for wireless carriers. Special access provides dedicated circuits that link together different parts of a wireless carrier's network (e.g., from its cell sites to its switches) and also provides links from wireless carriers to the wireline networks of other phone companies. Wireless carriers' dependence on special access is likely to grow substantially as they deploy broadband networks that deliver greater bandwidth but require correspondingly more capacity.

My concern is that significant concentration in the special access market through mergers and bankruptcies, combined with the Commission's deregulatory pricing regime, has resulted in higher prices and little competitive choice for special access connections. These are also the conclusions of a November 2006 Report by the General Accountability Office ("GAO") ("FCC Needs to Improve Its Ability to Monitor and Determine the Extent of Competition in Dedicated Access Services").

May 23, 2007  
Page Two

Because all wireless carriers rely so heavily on special access connections today, and will do so to an even greater extent in the future as they deploy next-generation broadband networks, I believe it is imperative for the Commission to modify its pricing flexibility rules for special access. My concern is that the prices wireless carriers pay today are higher than a truly competitive marketplace would support. As a result, unduly high prices may force such carriers to expend funds on special access that would be better spent on upgrading their networks to provide broadband services. For example, at the Subcommittee on Telecommunications and the Internet's April 19, 2007, hearing on Spectrum Opportunities and the Future of Wireless, Barry West, the Chief Technology Officer for Sprint/Nextel, testified that his company could expedite the deployment of its fourth generation mobile broadband network if it did not have to pay such significant sums for special access.

I believe the Commission can quickly address this matter so that special access prices do not have a negative effect on the prospects for innovation and competition in the 700 MHz band or for wireless broadband deployment generally, including wireless broadband deployment for public safety purposes. The Commission already has a substantial record concerning its special access regulatory regime, starting with a petition for rulemaking filed by AT&T in October 2002. Though the Commission did not act on AT&T's petition, it incorporated that record into a January 2005 rulemaking, which remains pending. Further, special access competition and pricing were major issues in the Commission's review of the SBC-AT&T, Verizon-MCI, and AT&T-BellSouth mergers, so the Commission also can rely on those records. Finally, the FCC can use recent analyses of the special access market – such as the November 2006 GAO Report cited herein – plus *ex parte* submissions filed by interested parties.

I am eager to know whether you agree or disagree with this assessment of the importance of revising special access rules to safeguard the prospects for greater wireless broadband competition and innovation as well as to remove excessive, anti-competitive costs for public safety or other municipal wireless uses. Specifically, I respectfully request each of you to respond to me by close of business on June 11, 2007, as to whether you support or oppose completing any review of special access issues necessary to adopt an Order revising such rules by no later than September 15, 2007. If you have any questions about this request please feel free to call me or have your staff contact Maureen Flood at 202 226-2424. Thank you in advance for your time and attention in responding to this request.

Sincerely,



Edward J. Markey  
Chairman

House Subcommittee on  
Telecommunications and the Internet