May 24, 2005

Ex Parte

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Special Access Rates for Price Cap Local Exchange Carriers, WC Docket No. 05-25
July 1, 2005 Annual Access Charge Tariff Filing, WCB/Pricing 05-22

Dear Ms. Dortch:

Global Crossing, by and through undersigned counsel, hereby files in support of the request submitted to the Federal Communications Commission ("FCC" or "Commission") by the eCommerce & Telecommunications User Group ("eTUG") and the Telecommunications Committee of the American Petroleum Institute ("API") to adopt an interim X-Factor of 5.3 percent for interstate special access rates.1

The eTUG/API Letter ably explains the basis for the request. The comment cycle for the Commission's special access rates proceeding will not close prior to July 1, 2005.21 The Commission stated in the Notice, however, that it anticipated adopting an

1 Letter from Brian R. Moir, counsel for eTUG and C. Douglass Jarett, counsel for API, to Marlene H. Dortch, Secretary FCC (May 10, 2005) (filed in WC Docket No. 05-25 & WCB/Pricing Docket No. 05-22) ("eTUG/API Letter").

interim order prior to July 1, 2005, to "ensure special access price cap rates remain just
and reasonable."3/ The concern correctly identified by the Commission is that, absent
further Commission action, special access rates effectively will remain frozen as a result
of the CALLS Order,4/ despite "substantial evidence suggesting that productivity has
increased and continues to increase in the provision of special access service."5/ At the
same time, BOCs' accounting rates of return have been "substantially in excess" of the
prescribed 11.25 percent rate of return for rate of return LECs.6/ The eTUG/API Letter
adds to this evidence by noting that the latest ARMIS filings show accounting rates of
return in excess of 76% for three of the four largest Price Cap LECs.7/

This evidence clearly indicates that special access rates are not just and reasonable
and that, at a minimum, the Commission promptly should impose an interim productivity
or X-Factor of 5.3%, the last productivity factor adopted by the Commission and
judicially upheld.8/ Adoption of a 5.3% productivity factor is purely an interim measure
and is in no way intended to prejudge the questions raised in the Notice regarding the
appropriate productivity factor or level at which to reinitialize price cap rates.

As the eTUG/API Letter noted, the Commission is accorded substantial deference
in fashioning interim relief and parties were provided ample notice that the Commission
was considering taking such an interim step.9/ Any residual concerns may be alleviated,
however, by issuing a separate notice on the eTUG/API request, with an accelerated
comment cycle on this discrete issue that provides sufficient time to act prior to July 1,

3/ Notice at 2037, ¶ 131.
4/ Access Charge Reform, CC Docket Nos. 96-262, 94-1, 99-249, 96-45, Sixth
Report and Order in CC Docket Nos. 96-262 and 94-1, Report and Order in CC Docket
No. 99-249, Eleventh Report and Order in CC Docket No. 96-45, 15 FCC Rcd 12962
of Public Util. Counsel v. FCC, 265 F.3d 313 (5th Cir. 2001), cert. denied, Nat'l Ass'n of
Reform, CC Docket Nos. 96-262, 94-1, 99-249, 96-45, Order on Remand, 18 FCC Rcd
14976 (2003).
5/ Notice at 2037, ¶ 131.
6/ Notice at 2009, ¶ 35.
7/ eTUG/API Letter at 2.
8/ Notice at 2037, ¶ 131.
9/ eTUG/API Letter at 2-3.
2005. There can be no complaint of hardship in light of the fact that carriers have previously had notice of the Commission's intent.\footnote{Global Crossing would also support eTUG/SPI's alternative proposal of delaying the date of the annual access filing. \textit{eTUG/API Letter} at 3.}

In accordance with the Commission's rules, this letter is being provided to you for inclusion in the public record of the above referenced proceedings.

Very truly yours,

GLOBAL CROSSING

By: Paul Kouroupas
Vice President & Sr. Counsel

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