BEFORE THE

FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
The Verizon Telephone Companies	)	Transmittal No. 1187
Tariff F.C.C. No. 1	)	
Tariff F.C.C. No. 11	)	
Tariff F.C.C. No. 14	)	
Tariff F.C.C. No. 16	)	

PETITION TO REJECT OR SUSPEND AND INVESTIGATE PROPOSED TARIFF REVISIONS

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PETITION TO REJECT OR SUSPEND AND INVESTIGATE PROPOSED TARIFF REVISIONS

MetroPCS Communications, Inc. ("MetroPCS") [1] hereby petitions the Federal Communications Commission ("FCC" or "Commission"), pursuant to Section 1.773 of the Commission's rules,[2] to reject, or, alternatively, suspend for the full five month period permitted under Section 204(a) of the Communications Act of 1934 ("Act"),[3] and institute an investigation of, the above-captioned tariff revisions filed by Verizon on April 30, 2012 under Verizon Transmittal No. 1187. In summary, the proposed tariff revisions significantly increase certain special access pricing flexibility rates in Verizon Tariff FCC Nos. 1, 11, and 14 to unjust and unreasonable levels in violation of Section 201(b) of the Act.[4] In support, the following is shown:

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1 For purposes of this Petition, the term "MetroPCS" refers collectively to MetroPCS Communications, Inc. and all of its FCC-licensed subsidiaries.

2 47 C.F.R. § 1.773.

3 47 U.S.C. § 204(a).

4 Verizon Transmittal Letter No. 1187, at 2 (April 30, 2012).

I. INTRODUCTION AND SUMMARY

MetroPCS is the nation's leading provider of flat-rated unlimited wireless communications service with no signed contract and among the fastest growing facilities-based wireless telecommunications carriers in the United States. MetroPCS provides wireless broadband personal communications services to over 9 million subscribers as of March 31, 2012. MetroPCS provides commercial mobile radio services in selected metropolitan areas throughout the United States, including in Verizon incumbent LEC territory in Boston, Dallas, Hartford, Los Angeles, Philadelphia, Providence, New York City, Newark, Trenton, Reading, Wilmington, central Florida and many other cities and locales throughout the nation. MetroPCS is currently the fifth largest facilities-based wireless carrier in the U.S. based upon subscribers and targets a mass market largely underserved by the large national wireless carriers. Many of MetroPCS' customers are low income or on fixed incomes and MetroPCS' services represent their ability to participate in the wireless revolution. Indeed, a significant portion use MetroPCS' services as their only telecommunications service and their sole access to the Internet. As such, these customers are very sensitive to price increases and the price increases proposed by Verizon would have an effect on MetroPCS' ability to offer such services at rates within the means of these customers.

MetroPCS uses a significant number of DS1 and DS3 special access circuits for wireless backhaul in Verizon's incumbent LEC territory. While MetroPCS may have choices at certain sites for these backhaul facilities, at a significant number of sites, Verizon is the only choice for wireline backhaul facilities. As such, any change in rates or flexibility of prices for these circuits will have a significant impact on MetroPCS' costs to provide service.

The proposed revisions in Transmittal No. 1187 significantly increase special access pricing flexibility rates in Verizon Tariff FCC Nos. 1, 11, and 14.[5] The increases range from 6% to 8% on top of the approximate 6% increase last year – yielding a total increase of 12.4% to 14.5% within a one year period – at a time when (a) the consumer price index increased about 2.7% and (b) increased competition predicted by the FCC should have driven special access rates down, not up. As a result, the proposed special access rate increases are unjust and unreasonable in violation of section 201(b) of the Act.[6]

MetroPCS is an interested party. Verizon's Tariffs F.C.C. Nos. 1, 11, and 14 govern the rates and terms pursuant to which MetroPCS obtains special access services from Verizon. MetroPCS therefore has a direct and cognizable interest in Verizon's proposed tariff revisions, which significantly increase many of its special access rates. MetroPCS respectfully requests that the Commission reject, or alternatively, suspend for the full five month period permitted under Section 204(a) of the Act, and institute an investigation of the above-captioned tariff revisions filed by Verizon on April 30, 2012 under Verizon Transmittal No. 1187.

II. DISCUSSION

A tariff that is prima facie unlawful because it conflicts with the Communications Act or a Commission rule, regulation or order, must be rejected.[7] Here, Verizon's tariff revisions are unlawful because they contain unjust and unreasonable rates that conflict with section 201(b) of the Act. The granting of Phase II price flexibility does not excuse Verizon from complying with

[5] Verizon Transmittal Letter No. 1187, at 2 (April 30, 2012).

[6] 47 U.S.C. § 201.

[7] *See, e.g.*, *American Broadcasting Companies, Inc. v. AT&T*, 663 F.2d 133, 138 (D.C. Cir. 1980); *MCI v. AT&T*, 94 F.C.C.2d 332, 340-41 (1983).

section 201(b) of the Act with respect to its special access rates.[8] As demonstrated below, Verizon's proposed rate increases violate section 201(b) of the Act and should be rejected. Under applicable law, the lesser remedy of suspension and investigation of a proposed tariff or tariff modification is warranted when significant questions of lawfulness arise in connection with the tariff.[9]

A. The Proposed Increases in Verizon's Transmittal No. 1187 Are Neither Just Nor Reasonable and Therefore, Violate Section 201(b) of the Act

Verizon's Transmittal No. 1187 imposes special access rate increases ranging from 6% to 8%. For example, the rate increases under the proposed changes to Verizon's Tariff F.C.C. No. 1 are 6% for high-capacity services (pages 7-250 through 7-266), 7.75% for certain Entrance Facility services (pages 7-290.1 through 7-299), and 8% for certain metallic, voice grade, channel terminations and digital data services (pages 7-288 through 7-249.2).[10] Similarly, Verizon seeks to impose substantial special access rate increases under Verizon's Tariff F.C.C. No. 11 amounting to approximately 6% for high capacity services and enterprise services (pages 30-55 through 30-130), an increase of approximately 7.75% for certain Entrance Facilities (pages 30-296 through 30-320), and an 8% increase for other services.[11] Finally, Verizon seeks to impose substantial special access price increases in Verizon's Tariff F.C.C. No. 14, including: a 6% increase that is applicable to (1) multiplexing (with the exception of digital data multiplexing) and (2) high capacity services, DS1 and DS3 term volume plans (pages 5-203

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[8] *In the Matter of Access Charge Reform Price Cap Performance Review for Local Exchange Carriers, Interexchange Carrier Purchases of Switched Access Services by CLECs,* CC Docket Nos. 96-262, 94-1, 98-63, 98-157, 14 FCCR 14221, FCC 99-206, at ¶ 56 (Aug. 27, 1999) ("Pricing Flexibility Order").

[9] *See, AT&T Transmittal No. 11935,* Docket No. 19989, 46 F.C.C.2d 81, 86 (1974); *ITT World Communications, Inc. Joint Tariff No. 12,* FCC No. 79-629, 73 FCC 2d 709, 716, n.5, 719 (1979); AT&T Transmittal No. 148, 56 RR2d 1503, Memorandum Opinion and Order, FCC 84-421 (released Sept. 19, 1984) (1984).

[10] Verizon Transmittal No. 1187, Tariff F.C.C. No. 1 (filed April 30, 2012).

[11] Verizon Transmittal No. 1187, Tariff F.C.C. No. 11 (filed April 30, 2012).

through 5-204; 5-208 through 5-247.8; 5-254 through 254.28); a 7.75% increase applicable to the IntelliLight Entrance Facilities services (pages 20-512 through 20-519); and an 8% increase applicable to voiceband, digital data-including multiplexing, and other services (pages 5-127 through 5-202.1; 5-205; 5-250 and 5-250.1). These excessive price increases are in addition to the approximately 6% rate increase that Verizon imposed on many of the same special access services on July 16, 2011 in Tariff F.C.C. Nos. 1, 11, and 14. Taken together, these price increases represent price increases of between 12.4% and 14.5% over a less than one-year span. This is at a time when Verizon's costs should not have been increasing at any greater rate than the CPI, which was about 2.7% for 2011.[12]

In fact, in a competitive market constrained by competition, special access prices should decline over time, not increase. As Sprint has noted, "rates for special access services, like DVD [players] or digital televisions and other high-tech goods and services, should be declining, rather than staying the same or increasing" as in the present case.[13] Verizon's propensity and ability to propose multiple price increases with impunity demonstrates that, contrary to the Commission's expectations when it issued in its Pricing Flexibility Order,[14] Verizon's special access rates are not effectively constrained by competition.

Verizon's proposed special access price increases would have an immediate deleterious effect on the costs of a key input to MetroPCS' services and on consumers. As discussed below, MetroPCS and other wireless providers are critically dependent on Verizon's special access

[12] Bureau of Labor Statistics, U.S. Department of Labor, USDL-12-0666, *Consumer Price Index - March 2012*, at 1 (rel. April 13, 2012) ("Over the last 12 months, the all items index increased 2.7 percent").

[13] *See*, Letter from Sprint Nextel Corp., to Marlene H. Dortch, Secretary, FCC, WC Docket No. 05-25, at 7 (filed Oct. 5, 2007) ("Sprint Letter").

[14] Pricing Flexibility Order, at ¶ 25 ("To obtain Phase II relief, price cap LECs must demonstrate that competitors have established a significant market presence (i.e., that competition for a particular service with the MSA is sufficient to preclude the incumbent from exploiting any individual market power over a sustained period) for the provision of the services at issue.").

services for wireless backhaul, which is a crucial input and a major component of a wireless carrier's costs. MetroPCS orders many of the affected services. In Philadelphia, Boston, New York, and other markets, MetroPCS utilizes Verizon's high capacity DS1 and DS3 special access channel terminations, channel mileage, and multiplexing services. In Philadelphia, for example, the price of MetroPCS's DS1 channel terminations and channel mileage purchased under a two year commitment under Verizon's Tariff F.C.C. No. 1 would increase by 6% under Verizon's proposed tariff revisions.[15] Likewise, the price of MetroPCS' DS1 channel terminations, DS1 channel mileage, and certain multiplexing services purchased in the Boston market under Verizon's Tariff F.C.C. No. 11 will also increase by 6%.[16] Similarly, the prices of many high capacity special access services purchased by MetroPCS in central Florida, Dallas and Los Angeles under Verizon's Tariff F.C.C. No. 14 will also increase by 6%.[17]

Further, MetroPCS', and other wireless carrier's, needs for these facilities are expected to increase, not decrease. As the Commission knows, the use of wireless data is increasing exponentially and as a result the need for increasing amounts of purchased circuits to support this growth are similarly increasing.[18] Moreover, as customers migrate more to 4G services and LTE, customers demand faster data rates with corresponding increased usage, which further

[15] *See, e.g.*, Verizon Transmittal No. 1187, Tariff FCC No. 1, Section 7.5.16 at 7-274, 7-274.1 (Price Bands 4 to 6) (effective May 15, 2012).

[16] *See, e.g.*, Verizon Transmittal No. 1187, Tariff FCC No. 11, Section 30.7.9, at 30-55, 30-113, 30-116, 30-129 (effective May 15, 2012).

[17] *See, e.g.*, Verizon Transmittal No. 1187, Tariff FCC No. 14, Section 5.7, at 5-204, 5-204.1, 5-209, 5-209.1, 5-210, 5-210.1, 5-234.1, 5-234 (effective May 15, 2012).

[18] Annual Report and Analysis of Competitive Market Conditions With Respect to Mobile Wireless, Including Commercial Mobile Services, WT Docket No. 09-66, Fourteenth Report, FCC 10-81, at 19, ¶¶ 136-138, 293-297 (May 20, 2010) ("FCC's Fourteenth Report") ("As the Smartphone penetration rate increases, bandwidth-consuming data services are becoming an increasing percentage of a wireless provider's overall traffic.").

causes wireless carriers to have to increase their use of high capacity leased facilities – such as these facilities.[19]

Moreover, if the proposed tariffs are permitted to go into effect, even if the FCC were later to determine that these increased special access rates are unjust and unreasonable, pursuant to 47 U.S.C. § 204(a)(3), MetroPCS would not be able to obtain a refund and thus would be irreparably harmed. Pursuant to Section 204(a)(3), rates that are not rejected or suspended by the FCC within 15 days and are permitted to go into effect, are "deemed lawful" such that the LEC that filed the tariffed rates is immunized from refund liability, even if that tariff is later found unlawful.[20] As a result, the FCC should at a minimum suspend and investigate the proposed tariff revisions because MetroPCS and all other purchasers of these services, whether wholesale or retail, would be unable, absent a suspension, to receive a refund.

In many instances, the rates imposed by Verizon under pricing flexibility exceed those imposed under the price cap regime. This fact alone demonstrates that Verizon's rates are unjust and unreasonable and not constrained by competition because under the Commission's theory in the Pricing Flexibility Order, the RBOCs were expected in most cases to lower their rates to meet the competition, not increase them.[21] For example, as shown in Tables 1 and 2 below, Verizon's current, effective special access DS1 loop recurring rates in areas where it has obtained price flexibility, for the contract term lengths referenced, are already approximately 21

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[19] FCC's Fourteenth Report, at 19, ¶¶ 108, 111-117, 293-297, Table 11; Annual Report and Analysis of Competitive Market Conditions With Respect to Mobile Wireless, Including Commercial Mobile Services, WT Docket No. 10-133, Fifteenth Report, FCC 11-103, at 8, 19, ¶¶ 323-324 (June 27, 2011) ("FCC's Fifteenth Report").

[20] *Virgin Islands Telephone Corp. v. FCC*, 444 F.3d 666, 669 (D.C. Cir. 2006) (Courts have drawn a distinction between a "legal tariff" and a "lawful tariff." "A *legal* tariff is a tariff that is 'procedurally valid,'" meaning it has been filed and contains the substantive rates. "A lawful tariff is a tariff that is not only legal, but also contains rates that are 'just and reasonable' within the meaning of § 201(b)." A tariff can be "deemed lawful" if it is filed in a streamlined manner under section 204(a)(3) and permitted to go into effect without prior suspension or investigation. In this case, "remedies against carriers charging lawful rates later found unreasonable must be prospective only."); *ACS of Anchorage*, 290 F.3d 403, 411 (D.C. cir. 2002).

[21] Pricing Flexibility Order, at ¶¶ 25, 79, 142, 155.

to 38% higher than the equivalent price cap rates. Even more egregious, the price flexibility rates proposed by Verizon in Transmittal 1187 would increase prices for these services to levels that are approximately 28 to 46% higher than the equivalent price cap rates.

Table 1: Month-to-Month Rates ("MTM") for DS1s					
Rate Zones	Price Cap Rates[22]	Current Price Flex Rates[23]	% Increase Over Price Cap	Proposed Price Flex Rates 2012[24]	% Increase Over Price Cap
1	$197.00	$239.17	21.41%	$253.52	28.69%
2	$218.16	$300.56	37.77%	$318.59	46.03%
3	$231.49	$310.64	34.19%	$329.28	42.24%

Table 2: Two Year Term Monthly Rates for DS1s					
Rate Zones	Price Cap Rates[25]	Current Price Flex Rates[26]	% Increase	Proposed Price Flex Rates 2012[27]	% Increase Over Price Cap
1	$167.45	$203.20	21.35%	215.50	28.69%
2	$185.44	$255.48	37.80%	270.81	46.03%
3	$196.77	$264.05	31.19%	279.89	42.24%

Moreover, Verizon's proposed DS1 and DS3 special access rates also greatly exceed the rates for comparable unbundled network elements ("UNEs"). For example, Verizon's proposed month-to-month rate for a DS1 channel termination in F.C.C. Tariff No. 11 is more than four times the rate prescribed by the Massachusetts DTC, using the FCC's TELRIC methodology, for

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22 *See*, Verizon Tariff FCC No. 1 Section 7.5.9(A)(1)(a) at 7-250 (Rate Zones 1 to 3).

23 *See*, Verizon Tariff FCC No. 1 Section 7.5.9(A)(1)(a) at 7-250 (Price Bands 4 to 6) (effective July 16, 2011). It is our understanding that pricing zone rates apply in Verizon's price cap areas, whereas price band rates apply in pricing flexibility areas. Under Verizon's tariff, there are three pricing zones 1-3 and three pricing bands 4-6. In this comparison, we compare price zone 1 with price band 4, price zone 2 with price zone 5, and price zone 3 to price band 6.

24 *See*, Verizon Transmittal No. 1187, Tariff FCC No. 1 Section 7.5.9(A)(1)(a) at 7-250 (Price Bands 4 to 6).

25 *See*, Verizon Tariff FCC No. 1 Section 7.5.16(A) at 7-264 (Zones 1-3) (effective July 16, 2011).

26 *See*, Verizon Tariff FCC No. 1 Section 7.5.16(A) at 7-264 (Price Band 4-6) (effective July 16, 2011).

27 *See*, Verizon Transmittal No. 1187, Tariff FCC No. 1 Section 7.5.16(A) at 7-274 (Price Band 4-6).

a comparable DS1 high capacity UNE loop.[28] Likewise, Verizon's proposed month-to-month rate for a DS3 channel termination is more three times the rate in Massachusetts for a comparable DS3 high capacity UNE loop.[29] The TELRIC methodology developed by the FCC and used by state commissions to establish UNE rates provides for Verizon to recover its costs plus a *reasonable* profit. The United States Supreme Court found that the TELRIC forward-looking cost estimation upon which UNE rates are derived is a valid and compensatory method of calculating an ILEC's true forward-looking costs.[30] Accordingly, UNE rates provide an excellent benchmark by which to assess whether the Verizon's special access rates are near forward-looking costs plus a reasonable profit. Given the disparity between UNE rates and Verizon's proposed special access rates, it is clear that special access rates are excessive.[31] In short, the fact that Verizon's proposed special access rates for DS1 and DS3 services vastly exceed the forward-looking cost-based UNE rates for the same services provides additional convincing evidence that these price flexibility special access rates are unjust and unreasonable in violation of section 201(b) of the Act.[32]

In addition, an analysis of the FCC's Automated Reporting Management Information System ("ARMIS") data establishes that Verizon's (and the other RBOCs') rates of return on special access services are excessive. Using 2007 data, the National Regulatory Research Institute ("NRRI") performed an analysis of earnings on special access services for the three

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28 Compare, Verizon Tariff DTE MA No. 17, Part M, Section 2 and Verizon, Transmittal No. 1187, proposed Tariff FCC No. 11 Section 30.7.9 at 30-55.

29 Compare, Verizon Tariff DTE MA No. 17, Part M, Section 2 and Verizon, Transmittal No. 1187, proposed Tariff FCC No. 11 Section 30.7.9 at 30-57.

30 *See Verizon Communications, Inc. v. FCC,* 535 U.S. 467, 467-472 (2002).

31 Sprint Letter, at 1 (noting that "special access prices are significantly higher than comparable unbundled network element prices and many times the prices for comparable services offered in broadband markets.").

32 47 U.S.C. § 201(b).

remaining RBOCs. The results demonstrated that all three RBOCs earned "well above the 11.25% authorized rate of return that the FCC last prescribed for price cap carriers." In fact, Verizon's rate of return was estimated at 62% using standard ARMIS data.[33] NRRI concluded that even after making adjustments, "all three large RBOCs have raised prices above average cost, defined in the traditional accounting sense."[34] While current ARMIS data is not available, Verizon's price increases of 6% to 8% will likely enhance Verizon's already excessive rate of return.

Finally, Verizon has provided no evidence to suggest that its special access prices are just and reasonable. The FCC should not accept carte blanche Verizon's dramatic increases in special access prices without explanation or justification, especially when such price increases are substantial and come on the heels of a prior substantial increase and are significantly above the increase in CPI. This dramatic price spike with no support provides sufficient grounds for the Commission suspend and investigate or reject the tariff filing in *toto*.

B. Verizon's Excessive Special Access Rate Increases will Undermine Competition in the Wireless Market By Increasing the Cost of Key Inputs Of Its Competitors

An addition to constituting an abuse of market power in the special access market, the proposed special access price increases will undermine competition in the downstream wireless market. Special access DS1 and DS3 circuits are critical inputs for MetroPCS and other wireless providers that compete with Verizon's affiliate, Verizon Wireless, to connect their cell towers and mobile telephone switching offices. Further, as the National Centers for Disease Control and Prevention has observed, increasing numbers of Americans are cutting the cord and using their

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33 Peter Bluhm & Dr. Robert Loube, NRRI, *Competitive Issues in Special Access Markets*, at 71 and Table 13 (Rev. Ed. Jan. 21, 2009) ("NRRI Study"); *See also*, Sprint Letter, at 3 (Oct. 5, 2007).

34 NRRI Study, at 71.

wireless services as their primary or only telecommunications service.[35] Indeed, a significant proportion of MetroPCS' customers use its service as their primary or only telecommunications service. As such, MetroPCS is not only competing with Verizon's wireless affiliate, but also its wireline services as well.

As the Commission has acknowledged "[b]ackhaul costs currently constitute a significant portion of a mobile wireless operator's network operating expense, and the demand for backhaul capacity is increasing."[36] The Commission has observed that "[w]ireless providers unaffiliated with a wireline provider often must rely on their competitors' affiliates for access."[37] For example, Sprint Nextel, the third largest wireless provider and a large buyer of special access for backhaul, noted that 98% of all of its DS1 backhaul facilities are purchased as special access circuits from ILECs as well as the vast majority of its DS3s.[38] Likewise, T-Mobile stated in 2010 that it "continues to seek an alternative to subsidizing its two largest competitors, but today AT&T and Verizon continue to supply the majority of T-Mobile's backhaul services."[39] The same is true for MetroPCS, despite its active efforts to seek alternative providers.

The special access rate increases proposed by Verizon in its Transmittal No. 1187 will significantly increase special access prices for Verizon Wireless's competitors. Wireless

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[35] Stephen Blumberg, Ph.D, and Julian Luke, Centers for Disease Control and Prevention, *Wireless Substitution: Early Release of Estimates from the national Health Interview Survey*, at 1, 3-4 (2008) (As of 2008, approximately 17.5% of all U.S. households had only a wireless phone and 26% of adults living in poverty had only a wireless phone.).

[36] Annual Report and Analysis of Competitive Market Conditions With Respect to Mobile Wireless, Including Commercial Mobile Services, WT Docket No. 09-66, Fourteenth Report, FCC 10-81, at ¶ 296, Table 3 and Chart 1 (May 20, 2010) ("FCC's Fourteenth Report"); FCC's Fifteenth Report, at ¶¶ 321-322.

[37] FCC's Fourteenth Report, at ¶¶ 295-296.

[38] FCC's Fourteenth Report, at ¶ 295; Sprint Nextel Comments, WC Docket No. 05-25, at ii (filed Jan 19, 2010); Sprint Letter, at 3 (Oct. 5, 2007) (Sprint "continuously searches for alternatives to incumbent LECs, but it has found alternative providers for only a very small portion of its special access needs.").

[39] T-Mobile Ex Parte Letter, *Special Access Rates for Price Cap Local Exchange Carriers*, WC Docket No. 05-25, at 1-2 (May 6, 2010) ("T-Mobile still purchases ILEC backhaul in most if its 3G coverage area."). As the FCC has noted "higher bandwidth Ethernet services, are currently unavailable in a number of markets." FCC's Fourteenth Report, at ¶ 295, n.783.

carriers, including MetroPCS, have few if any alternatives to the ILEC's special access services for reaching many of their cell sites, and few non-ILEC vendors have deployed or plan to deploy high capacity or fiber facilities that reach all cell sites. In Verizon's ILEC territory, MetroPCS relies on Verizon's special access services, such as DS1 and DS3 loops, to connect its cell towers to its mobile telephone switching offices.[40]

MetroPCS has searched for alternative providers of special access services in the areas affected by Verizon's special access price increases, but in the vast majority of cases has been unable to locate alternative providers. Thus, in the vast majority of cases, MetroPCS is captive to Verizon's rate increases. Other wireless providers have had similar experiences in locating alternative providers.[41] For example, in 2005, Nextel reported that when it issued a Request for Information for the provision of high capacity circuits to its 1,500 cell towers in the New York City area, it received offers from CLECs covering only 43, or less than 3% of those cell towers.[42]

Because DS-1 and DS-3 facilities are used to a large extent for wireless backhaul, it is especially important that prices for such services be just and reasonable in light of the lack of competition for these services. As the Commission has observed, "[i]n light of the growing need for backhaul, cost-efficient access to adequate backhaul will be a key factor in promoting robust competition in the wireless marketplace."[43] Moreover, special access, often used to provide wireless backhaul, is a key input that constitutes a significant portion of a mobile wireless

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[40] *See, e.g., Special Access Rates for Price Cap Local Exchange Carriers*, WC Docket No. 05-25, Comments of MetroPCS Communications, Inc. (Oct. 29, 2007) (competing wireless companies "remain heavily reliant on incumbent LECs, and price cap LECs in particular, for special access, frequently for more than 90 percent of their special access purchases.").

[41] Sprint Letter, at 2 (Oct. 5, 2007).

[42] *Reply Comments of Nextel Communications, Inc.*, WC Docket No. 05-25, Attachment 1, Declaration of Bridger M. Mitchell and John R. Woodbury, at 24, ¶ 62 (July 29, 2005).

[43] FCC's Fourteenth Report, at ¶ 296.

provider's network operating costs.[44] In fact, Sprint has stated that approximately one-third of the expense of operating a cellular site can be attributed to purchases of special access services for backhaul.[45] MetroPCS concurs that special access purchases of backhaul are also a substantial portion of the expense of operating its network. As demonstrated above, through its control of the upstream special access market for wireless backhaul, Verizon seeks to undermine competition in the downstream wireless market by raising the price of its competitors' special access backhaul.

III. CONCLUSION

For the reasons described herein, the special access price increases proposed by Transmittal 1187 are on their face unjust and unreasonable, and therefore unlawful under section 201(b) of the Act. MetroPCS respectfully requests that the Commission reject Verizon's proposed revisions to Tariff F.C.C. Nos. 1, 11, and 14 set forth in Transmittal 1187 that propose special access price increases because there is a high probability these tariff revisions will be found unlawful after an investigation. If the Commission fails to reject the tariff revisions outright, the Commission should at a minimum suspend the revisions proposed by Verizon subject to an investigation to resolve the foregoing issues. MetroPCS and other customers that are forced by market conditions to rely on Verizon's special access services will be irreparably

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44 FCC's Fourteenth Report, at ¶ 296.

45 Sprint Letter, at 4 (Oct. 5, 2007) ("Special access represents approximately 33% of Sprint Nextel's costs to operate a cell site, a figure that is at least twice what it would be if special access prices were related to cost. The excessive special access prices divert funds from Sprint Nextel's deployment of its fourth-generation broadband network and, in many cases, subsidize Sprint Nextel's wireless competitors."); Roger Cheng, *Leap Wireless Opposes T-Mobile Deal*, The Wall Street Journal (May 24, 2011).

harmed if these tariff revisions are permitted to go into effect and become "deemed lawful"[46] as they will be unable to recover the excessive costs unilaterally imposed by Verizon.

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Dated: May 7, 2012

[46] 47 U.S.C. § 204(a)(3).

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of May, 2012, an original and four copies of the foregoing **Petition to Reject or Suspend and Investigate Proposed Tariff Revisions of MetroPCS Communications, Inc., Transmittal No. 1187,** was filed with the Secretary and copies were served to the parties below via hand-delivery, electronic mail, facsimile and/or U.S. first-class mail to the following:

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