

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
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Accelerating Wireline Broadband)	WC Docket No. 17-84
Deployment by Removing Barriers)	
To Infrastructure Investment)	
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**Comments of
Communications Workers of America
On Further Notice of Proposed Rulemaking**

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I. Introduction

The Communications Workers of America (CWA) submits these comments in response to the Wireline Infrastructure *Further Notice of Proposed Rulemaking (FNPRM)*.¹ CWA represents 700,000 workers in private and public sector employment who work in telecommunications and information technology, the airline industry, news media, broadcast and cable television, education, health care and public service, law enforcement, manufacturing and other fields. CWA members have a direct interest in this proceeding as workers and consumers.

As CWA has made clear throughout this proceeding, we strongly support Commission policies that accelerate deployment of affordable advanced networks to all Americans while at the same time protecting consumers during and after technology transitions.² In a series of *Technology Transition* decisions, the Commission established rules that carefully balanced these objectives, while protecting and enhancing the core statutory and enduring values of public safety, universal access, consumer protection, and competition.³ But shortly after the *2015 Copper Retirement* and *2016 Service Discontinuance Orders* took effect, and despite overwhelming opposition from a broad range of consumer, rural, elderly, labor, civil and human rights, and low-income organizations,⁴ the Commission adopted the *2017 Wireline Infrastructure Order*. The *2017 Wireline Infrastructure Order* completely eliminated requirements to provide

¹ *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment, Further Notice of Proposed Rulemaking*, WC Docket No. 17-84, Nov. 29, 2017 (rel) (“FNPRM”).

² CWA Comments, *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, June 15, 2017; CWA Reply Comments, *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, July 17, 2017.

³ *Technology Transitions, et al, Report and Order*, GN Docket No. 13-5, RM-11358, Aug. 7, 2015 (rel) (“*2015 Copper Retirement Order*”); *Technology Transitions et al, Declaratory Ruling, Second Report and Order, and Order on Reconsideration*, GN Docket No. 13-5, WC Docket No. 13-5, RM-11358, July 15, 2016 (rel) (“*2016 Service Discontinuance Order*”); *AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition et al., Order, Report and Order and Further Notice of Proposed Rulemaking*, GN Docket Nos. 13-5 and 12-353 et al.,

advance notice of copper retirement to retail customers, reduced notice requirements to competitive carriers of network changes, allowed carriers to let their copper networks deteriorate due to lack of maintenance (*de facto* copper retirement), downgraded the definition of service to a community to little more than provision of dial-tone, and shortened the time period for public comment on Section 214 discontinuance petitions.⁵ Most of these radical rule changes have not yet taken effect, pending Office of Management and Budget review. Consumer groups and state consumer advocates have challenged the *2017 Wireline Infrastructure Order* in court.⁶

And yet, in this *FNPRM*, the Commission proposes further reductions in consumer protection, education, and opportunities for public comment when an incumbent carrier seeks Section 214 approval to discontinue legacy voice service. CWA opposes the proposals in the *FNPRM*. As an initial matter, the Commission should not adopt any additional rule changes before it has gathered evidence to evaluate the impact of the 2017 rule changes, and certainly not before the court challenges are adjudicated. But more fundamentally, the Commission should not adopt the proposed changes because they will make it more difficult to achieve the very important goals that the Commission aims for this proceeding – accelerating the transition to next-generation broadband services. As CWA has repeatedly pointed out, rules that give consumers clear, sufficient, and timely information regarding the discontinuance of legacy services and the opportunity for meaningful public participation help reduce resistance to change. Giving people, businesses, and government agencies the time and education they need to prepare

Jan. 31 (2014) (rel) (“*2014 AT&T Wire Center Trials Order*”).

⁴ See, for example, Public Interest Organization Letter to Chairman Ajit Pai, WC Docket No. 17-84, Nov. 9, 2017.

⁵ *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, Nov. 29, 2017 (rel) (“*2017 Wireline Infrastructure Order*”).

⁶ *Greenlining Institute et al v. FCC*, Petition for Review, Case No. 17-73283 (9th Cir. 2017).

for change and the reassurance that they will not be left with inferior service will facilitate the transition to new advanced networks and services.

There are 48 million consumers, businesses, and government agencies that rely on the legacy voice network.⁷ Many are elderly, low-income, and located in rural areas with few, if any, alternatives for affordable, quality communications services. The Commission already took a big leap backward in assuring them adequate protection, advance notice, and opportunity for public comment during technology transitions. The Commission should not further reduce those protections. Therefore, CWA urges the Commission to reject the *FNPRM* proposals.

II. The Commission Should Not Eliminate Education and Outreach Requirements that Help Consumers, Businesses, and Government Entities Understand and Prepare for Technology Transitions

The most outrageous, anti-consumer proposal in the *FNPRM* suggests eliminating the important consumer education and outreach requirements that were established in the *2016 Service Discontinuance Order*.⁸ In adopting those requirements, the Commission explained “the establishment of clear guidance on education outreach materials will help promote seamless technology transitions, consumer choice, and the fulfillment of consumer information needs.”⁹ CWA wholeheartedly agrees, as did the AARP, numerous Civil Rights and Public Interest Organizations, state regulatory commissions and state consumer advocates, all of whom urged the Commission to require discontinuance applicants to offer comprehensive education and outreach plans.¹⁰ As the Commission wrote in the *2014 AT&T Wire Centers Trial Order*, “we can only advance our goal of advancing technology transitions if customers are fully educated

⁷ FCC, *Voice Telephone Services as of June 30, 2016*, April 2017.

⁸ *FNPRM*, para. 176-177.

⁹ *2016 Service Discontinuance Order*, para 457.

and informed.”¹¹ AT&T concurred, noting in its Wire Center Trial Operating Plan that “customer outreach and education are critical elements of our plan for the trials, and will be essential to their success.”¹² In AT&T’s wire center trials in West Delray Beach FL and Carbon Hill AL, the company conducted more than 100 informational events with community leaders, local organizations, and governments, with special outreach to seniors and people with disabilities. Even with this extensive outreach, AT&T reports only a 38 percent reduction in consumer and 25 percent reduction in business TDM (circuit switched) service.¹³ This underscores the importance of a comprehensive, multi-faceted consumer education and outreach program prior to shutting down legacy services. There is widespread agreement that the extensive consumer outreach and education conducted by the Commission in cooperation with community-based organizations and state and local governments was critical to the successful transition from analog to digital television.

The Commission’s service discontinuance consumer outreach and education guidelines are not overly burdensome. They provide consumers with the minimum amount of information they need to transition from legacy to alternative services, and they provide carriers with a flexible blueprint to follow. An Applicant seeking discontinuance authority must 1) develop and disseminate materials that explain the changes to the service, the impact on existing applications and functionalities, any price changes, and points of contact for questions; 2) provide an accessible telephone hotline staffed at least 12 hours per day to answer questions regarding

¹⁰ *Id.*, para. 181 fn. 461.

¹¹ *2014 AT&T Wire Centers Trial Order*, para. 70.

¹² AT&T Wire Center Trial Operating Plan, p. 16, Feb. 27, 2014.

¹³ AT&T Final Wire Center Trial Report, *Technology Transitions, et al.*, GN Dockets No. 13-5 and 12-353, Jan. 19, 2017.

discontinuance; and 3) designate staff trained to assist consumers with disabilities with transition issues.¹⁴ These are reasonable and practical guidelines, and CWA would hope that carriers would actually expand upon these mandates with more extensive outreach, just as AT&T did in West Delray Beach FL and Carbon Hill, AL. Issues of public safety and public welfare are at stake. Consumers who do not understand that their legacy service might be shut off on date certain could find themselves without vital communications at times of medical or weather emergency. The Commission should reaffirm these guidelines and soundly reject any modifications that would weaken consumer outreach and education.

III. The Commission Should Not Forbear from Section 214(a) Discontinuance Requirements Based Solely on Carrier Self-Certification

The *FNPRM* seeks comment on Verizon's proposal to further "streamline," or even forbear from, Section 214(a) review when a discontinuance Applicant self-certifies that it has upgraded TDM (circuit-switched) service to VoIP.¹⁵ While CWA strongly supports such upgrades, and believes that incumbent carriers that upgrade their networks to fiber should not be required to maintain legacy networks indefinitely, we also believe that the Commission has a responsibility to ensure the accuracy of an Applicant's self-certification. Simply put, absent Commission review and public comment, how can the Commission determine whether the Applicant's self-certification is accurate throughout the affected service area? To cite one example, New York City and Verizon have a longstanding dispute about whether Verizon has met its obligation to deploy fiber throughout the city simply by passing city intersections.¹⁶

¹⁴ 2016 *Service Discontinuance Order*, para. 179-186.

¹⁵ *FNPRM*, para. 171-175.

¹⁶ Patrick McGeehan, "New York City Sues Verizon, Claiming Broken Promises of Fios Coverage," *The New York Times*, March 13, 2017 (<https://www.nytimes.com/2017/03/13/nyregion/ny-sues-verizon-fios.html>).

Moreover, the current 15-day public comment and 31 day auto-grant period for streamlined discontinuance petitions poses no barrier to a carrier's fiber deployment decision, which has gone through an extensive and lengthy internal capital allocation process.¹⁷ Therefore, the Commission should reject Verizon's proposal to further streamline or forbear from applying Section 214(a) discontinuance requirements to carriers seeking to transition from legacy voice services to next-generation replacement services.

Similarly, the Commission should reject CenturyLink and AT&T's proposal to forbear from applying Section 214(a) discontinuance requirements when carriers seek to discontinue, reduce, or impair services with no existing customers.¹⁸ Certainly, CWA supports Commission approval of discontinuance requests for legacy services with no customers. But, again we emphasize that it is only through Commission review and especially public comment that the Commission can determine the accuracy of self-certification. A 15-day comment and 31-day auto-grant period certainly poses little barrier to swift approval of such requests.

IV. The Commission Should Reject *FNPRM* Proposals that Reduce Public Oversight of Discontinuance Applications and Preempt State and Local Governments

The Commission should reject AT&T's proposal to begin the public comment/auto-grant shot clock on the date a carrier files a short-term network change notice rather than on the date the Commission releases its public notice.¹⁹ The Commission's reasoning regarding copper retirement – that having the waiting period begin with the release of the public notice “affords

¹⁷ The *2016 Service Discontinuance Order* determined that incumbent local exchange carriers are non-dominant carriers eligible for the 15-day comment and 31 day auto-grant period established for non-dominant carriers. *2017 Wireline Infrastructure Order*, para. 91 and para. 85 fn. 291.

¹⁸ *FNPRM*, para. 168-170.

¹⁹ *FNPRM*, para. 163-164.

the Commission staff the necessary opportunity to review filings for mistakes and/or non-compliance with the rules” – applies to short-term network changes as well.²⁰

The Commission should proceed cautiously with any rule change that would apply streamlined notice procedures for *Force Majeure* events to all network changes.²¹ The Fire Island NY service discontinuance continues to be a cautionary tale for any reduction in service discontinuance procedures. When Verizon replaced its storm-damaged copper network on Fire Island NY after Superstorm Sandy with a fixed wireless service that did not work with a range of third-party services, consumers, businesses, first responders, and public officials responded with outrage.²² This Commission and state regulators are still assessing the aftermath of recent hurricanes and fires on communications infrastructure. At this time, the Commission should proceed cautiously in reducing further its oversight over network changes after immediate recovery efforts.

Finally, the Commission should reject proposals to preempt state or local laws under the guise that such statutes “inhibit restoration of communications infrastructure.”²³ The *FNPRM* does not provide even one example of such a statute. Rather, the Commission should continue to work cooperatively with state and local authorities to help communities rebuild damaged or destroyed communications infrastructure after a natural disaster as quickly as possible.

²⁰ *Id.*, para. 164.

²¹ *Id.*, para. 167.

²² See Verizon Second Response to Information, Data, and Document Request, *Application of Verizon New Jersey Inc. and Verizon New York Inc. to Discontinue Domestic Telecommunications Services*, WC Docket No. 13-150, Sept. 4, 2013 at 10; CWA Comments, *Application of Verizon New Jersey Inc. and Verizon New York Inc. to Discontinue Domestic Telecommunications Service*, WC Docket No. 13-50, July 24, 2013 at 9-17.

V. Conclusion

The Commission's *2017 Wireline Infrastructure Order* represents a giant leap backward in protecting consumers during technology transitions, while doing little, if anything, to spur deployment of affordable, quality advanced services to all Americans. The proposals in the *FNPRM* would only exacerbate the damage by further reducing consumer protection, education, and opportunities for public comments. The consumer harm would be felt most acutely by elderly, low-income, and rural customers who disproportionately depend on legacy services for affordable, quality communications. The Commission should reject the *FNPRM* proposals.

Respectfully Submitted,

A handwritten signature in cursive script, reading "Debbie Goldman", is positioned above a horizontal line.

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January 17, 2018

²³ *FNPRM*, para. 178-179.