



April 8, 2019

Ex Parte

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

Re: *Petition of USTelecom for Forbearance Pursuant to 47 U.S.C. §160(c) to Accelerate Investment in Broadband and Next-Generation Networks* (WC Docket No. 18-141)

Dear Ms. Dortch:

On Thursday, April 4, Frank Simone and Keith Krom of AT&T; Nick Alexander of CenturyLink; A.J. Burton of Frontier; and Fred Moacdieh of Verizon, along with the undersigned, met separately with Arielle Roth, Wireline Legal Advisor to Commissioner O’Rielly, Randy Clarke, Acting Legal Advisor, Wireline and Public Safety to Commissioner Starks, Travis Litman, Chief of Staff and Senior Legal Advisor, Wireline and Public Safety to Commissioner Rosenworcel, and Evan Swarztrauber, Policy Advisor to Commissioner Carr.

During the meetings, we discussed USTelecom's full support of the draft Memorandum Opinion and Order scheduled for consideration at the Commission’s April 12 Open Meeting that would grant forbearance to Bell Operating Companies and independent incumbent carriers from certain unnecessary and outdated structural and nondiscrimination requirements. Specifically, the Commission should forbear from the requirement that independent rate-of-return carriers offer long-distance telephone service through a separate affiliate. The request for relief from Section 272(e)(1) and related obligations governing affiliate relations (section 64.1903) is effectively uncontested in the record, and the few who oppose this request base their arguments on long-discredited claims of ILEC market power, power which does not exist in the modern marketplace.

Similarly, the record contains nothing to prevent forbearance from item 3 of the Section 271 competitive checklist, which duplicates the protections regarding access to poles, conduit, and right of way under Section 224. Recent Commission findings underscore that ILECs have no advantage with regard to pole access; they should not remain subject to unique requirements.

Finally, the Commission should forbear from enforcing unnecessary nondiscriminatory provisioning interval requirements, namely Section 272(e)(1) of the Act and related special access performance metric reporting obligations. The rule is unnecessary given other statutory protections prohibiting incumbent carriers from engaging in unreasonably discriminatory behavior. Moreover, the special access performance metrics are burdensome for carriers, and the FCC does not appear to use them for any purpose. When the Commission rejected USTelecom’s request for forbearance from section 272(e)(1) in 2015, it cited the lack of data regarding special access competition. However, the Commission has since acknowledged the nationally competitive market for business data services (special access). Marketplace pressures are a strong deterrent, separate from statutory and regulatory backstops, against incumbent carriers unreasonably provisioning to competitors on a slower basis than they do to themselves or their affiliates.

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Please direct any questions to the undersigned.

Sincerely,

/s/ Patrick Halley

Patrick Halley
Senior Vice President, Advocacy and
Regulatory Affairs

cc (via email):

Arielle Roth
Randy Clarke
Travis Litman
Evan Swarztrauber