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Via Electronic Filing

Ex Parte Communication

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Portals II, Room TW-A325
Washington, DC 20554

Re: *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84.

Dear Ms. Dortch:

As discussed in AT&T's comments in this proceeding, AT&T encourages the Commission to further streamline the service discontinuance process and copper retirement rules. Although the Commission has taken significant steps to reduce regulatory burdens that impact providers' ability to accelerate deployment of next-generation networks and services,¹ additional opportunities remain to further reform the requirements to be consistent with current market conditions that could promote investment and deployment of high-speed broadband networks.

Specifically, the Commission's proposal to streamline the approval process for applications seeking to grandfather data services should not be limited to data services with download/upload speeds of less than 25/3 Mbps. The streamlined process should apply to any data service so long as the applying carrier certifies that it satisfies the Commission proposed requirement, i.e. it provides alternative data services with at least equivalent quality and speeds throughout the affected area.² AT&T agrees with the Commission that such applications should have a "comment period of 10 days and an auto-grant period of 25 days for all carriers."³ And further, for data services that have not previously been grandfathered, the Commission also should adopt a streamlined auto-grant process for a service discontinuance if the carrier sends customers notice at least 180 days prior to filing an

¹ Report and Order, Declaratory Ruling, and Further Notice of Proposed Rulemaking ¶ 1, FCC 17-154 (rel. November 29, 2017) ("*Report and Order*").

² Customers of higher bandwidth data services (i.e. greater than 25/3) are sophisticated purchasers and likely to have alternative providers available and don't need special regulatory protection by excluding these services from streamline discontinuance treatment.

³ Report and Order, Declaratory Ruling, and Further Notice of Proposed Rulemaking ¶ 157, FCC 17-154 (rel. November 29, 2017) ("*FNPRM*").

application to discontinue the data service, with the same streamlined comment (10-day) and auto-grant (31-day) periods the Commission adopted in the recent *Report & Order*.⁴

The record in this docket shows that consumers have abandoned legacy voice services in droves, transitioning instead to VoIP, fixed and mobile wireless voice services, and other communications options enabled by broadband, e.g., over-the-top VoIP services. Thus, there can be no doubt that these additional voice services are adequate (and arguably superior) alternatives for legacy TDM voice service. For example, AT&T's interconnected VoIP ("AT&T Phone") and wireless voice services offer superior features and capabilities than legacy wireline voice service, and they are also compliant with the Commission's applicable 911, and accessibility regulations.⁵ For these reasons, the Commission should adopt a presumption that interconnected VoIP and wireless voice services that satisfy the Commission's applicable 911 and accessibility regulations are adequate alternatives for legacy voice service, and adopt a streamlined process that allows an automatic approval for applications to discontinue legacy TDM voice service if a carrier certifies either: (1) that it provides interconnected VoIP service throughout the affected service area; *or* (2) that at least one other alternative voice service (e.g., wireless voice service, interconnected VoIP service) is available in the affected service area.⁶

The Commission also should grant forbearance from applying Section 214(a)'s discontinuance requirement when a service has had no customers or reasonable requests for service during the 30-day period immediately preceding discontinuance, e.g. (1) all previous customers have migrated to another service or provider, (2) when a service in the affected area has never had any customers, or (3) when a force majeure event, (such as a hurricane, tornado, forest fire, etc.) destroys existing facilities and legacy services with no customers are not compatible with the replacement service architecture. Under any of these scenarios, no community or part of a community would be cut off from the public communications infrastructure when a service with no existing customer is eliminated. Thus, enforcement of

⁴ This process would avoid filing two applications (the first to grandfather and a subsequent application to discontinue) before discontinuing these services. *See* AT&T FNPRM Comments, p.3.

⁵ Contrary to comments in the record expressing doubts about access by people with disability to interconnected VoIP (See *Ex Parte* Letter from Kevin Colwell, Ultratec, Inc., to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-84 (Aug. 22, 2017), discussing the provision of TTYs using fiber and VoIP connections), AT&T's interconnected VoIP service (AT&T Phone) is compatible with TTY. Indeed, AT&T has used quality of service safeguards and other technological measures to reliably support TTY use with AT&T Phone. (Others have similarly confirmed that interconnected VoIP services are compatible with TTY. *See e.g.*, VON Coalition: Benefits of VOIP/People with Disabilities ("The interconnected VOIP Industry has worked to develop standards and implement technology that is interoperable with TTY devices.")). http://von.org/secpgs/02_benefits/benefits_06_disabilities.html (last checked 05/14/2018); Letter from Diane B. Burstein, NCTA, to Marlene H. Dortch, Secretary, FCC, CG Docket No. 16-145, *In the Matter of Transition from TTY to Real-time Text Technology*, (Dec. 8, 2016) ("[T]he record shows that wireline VoIP providers support TTY transmissions from consumers . . .").

⁶ Although there is no reason to precondition streamlining on the availability of more than one alternative, in fact, multiple alternatives are available in the vast majority of the country. The Commission itself recently confirmed that 93% of the population is covered by at least four voice providers and that 99.7% of the population is covered by at least 2 voice providers. Annual Report and Analysis of Competitive Market Conditions with Respect to Mobile Wireless, including Commercial Mobile Services, *Twentieth Report*, WT Docket No. 17-69 (Rel. Sept. 27, 2017).

the key component of the Section 214(a) discontinuance process — “notify[ing] all affected customers”— would be futile in the context of services without existing customers. (In the alternative, the Commission should extend the existing zero customer rule to *all services* without existing customers, not just low speed legacy services.)

The record also shows that the CPE notice requirements embodied in rules 68.110(b) and 51.325(a)(3) are woefully outdated, and so should be eliminated.⁷ As described in our comments, the ILECs and equipment suppliers now rely on the Administrative Council for Terminal Attachments (ACTA) standards, and all terminal equipment must comply with FCC rules and ACTA standards.⁸ Assuming consumers are only using ACTA-compliant CPE, there should be no issue, since service providers have every incentive to work through ACTA to ensure their services remain compatible with ACTA approved CPE. But that is the rub with the rule - which requires service providers to notice consumers if a network change is reasonably expected to materially affect the customer’s CPE. There is nothing to forestall *consumers* from connecting non-complaint CPE to the network, ILECs cannot possibly be aware of all instances of consumers’ use of incompatible CPEs, nor what possible effect the proposed network change would have on non-ACTA approved CPE – making 100% compliance with the rule impossible. The rules no longer serve any public benefit or purpose.

If you have any questions or need additional information, please do not hesitate to contact me.

Sincerely,

/s/ Ola Oyefusi

⁷ AT&T FNPRM Comments, at 8-14. *See* Comments of ADTRAN, Inc. at 5 (“Significant changes in the marketplace over the last 22 years have obviated the risk of the ILECs dominating the market for CPE. The ILECs no longer have market dominance for local exchange services, with the widespread adoption of VoIP and wireless services. Nor do the ILECs have any affiliation with CPE manufacturers. Thus, the premise for the rule is no longer valid.”); ITTA Comments at 8 (“concerns in the existing rules about incompatibility are no longer relevant to today’s CPE marketplace.”). *Cf* Comments of NTCA-The Rural Broadband Association at 7 which espouse a non-regulatory approach to carriers notifying customers. (“NTCA supports an approach that leaves to the carriers the task of determining at the outset whether such notification is necessary, but without a regulatory mandate that such notice must be provided”).

⁸ AT&T FNPRM Comments, at 8-14; AT&T FNPRM Reply Comments, at 6-8.