June 20, 2016

Ex Parte

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

Re: *Technology Transitions* (GN Docket No. 13-5); *AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition* (GN Docket No. 12-353)

Dear Ms. Dortch:

On Thursday, June 16, 2016, Jonathan Banks and the undersigned, USTelecom Association, and industry representatives (Melissa Newman, CenturyLink; Maggie McCready, Rachel McKenzie, and Tachana Joseph, Verizon) met with the following from the FCC's Wireline Competition Bureau: Carol Mattey, Daniel Kahn, Peter Saharko, Brian Hurley, Megan Capasso, Taliesin Gabriel, Gail Krutov, and Brad Borne in person; Michelle Berlove, Heather Hendrickson, and Alexis Johns by telephone. The purpose of the meeting was to discuss AT&T's proposal to facilitate technology transitions "by providing greater efficiency, robust customer protections and Commission oversight to discontinuance process."[1]

USTelecom and its members fully support the overarching goal of AT&T's proposal to streamline section 214 applications to discontinue legacy interstate telecommunications service in favor of service based on newer technology. In particular, we believe the proposal offers a reasonable alternative to the Commission's proposed approach, including its tentative conclusion that 8 proposed criteria are appropriate when considering section 214 applications involving technology transitions.[2] Streamlining of these applications would benefit the Commission as well as providers seeking discontinuance. Moreover, adoption of streamlining measures up front would not be premature, as Public Knowledge suggests,[3] but rather is necessary to keep pace

[1] Ex Parte Letter from David L. Talbott, AT&T to Marlene H. Dortch, Secretary, FCC, GN Docket Nos. 13-5, 12-353 (filed May 31, 2016) (attaching AT&T's proposal as "Attachment 1").

[2] *See Business Data Services in an Internet Protocol Environment et al.*, Tariff Investigation Order and Further Notice of Proposed Rulemaking, WC Docket Nos. 16-143, 15-247, 05-25, RM 10593, FCC 16-54, ¶ 208 (rel. May 2, 2016) (*BDS FNPRM*)).

[3] *See* Letter Harold Feld, Public Knowledge to Marlene H. Dortch, Secretary, FCC, GN Docket Nos. 13-5, 12-353, WC Docket Nos. 11-42, 10-90, 09-197 (filed Jun. 6, 2016). At the same time, Public Knowledge appears to support a streamlining approach, anticipating that streamlining will be appropriate at some time in the future.

with already rapidly-transitioning communications facilities and services. We further emphasized that if the Commission declines to adopt a streamlining proposal, the existing five-factor evaluation for deciding section 214 discontinuance petitions should continue to be used to evaluate all such petitions without regard to whether they involve technology transitions.[4] In particular, we argued petitions to discontinue services for which there is no present customer demand pose no technology transition-specific risk, and thus should be liberally granted upon certification that AT&T's proposed requirements are met.

We further agreed with AT&T's view that several of the Commission's proposed criteria should not be adopted. Specifically, there is no need to adopt criteria for network reliability, service quality and service functionality because consumers already demand them as part of their service, therefore the marketplace is already working to ensure that providers are successfully meeting these criteria (and where they are not, customers can and do look elsewhere for their services). We also explained that other proposed criteria are unnecessary because they are already required under existing regulations. As noted in our comments to this proceeding, those criteria include accessibility for individuals with disabilities, access to PSAP and 911 services, and other public safety and consumer protection requirements.[5]

We also discussed in some detail the proposed criterion that would require providers to adhere to cybersecurity requirements as ill-advised and unworkable. For example, today's primary framework for addressing cybersecurity involves the application of industry-developed risk management principles and best practices to improve the security and resilience of critical infrastructure on an individualized basis that companies—regardless of size, degree of cyber risk or cybersecurity sophistication—can apply to fit their needs. Any suggestion that the Commission could develop a list of factors that would be appropriately applied to all providers is contrary to the widely-accepted view of our member companies, as we noted in comments filed with the Department of Commerce, that "any prescriptive approach to cybersecurity would be counter-productive and would only produce a false sense of security. The environment we face today is one in which the bad guys want nothing more than for companies to follow a rigid playbook."[6] There is no one-size-fits-all with cybersecurity; thus, we strongly believe the Commission should not undertake to address what cybersecurity measures are adequate for today's and tomorrow's networks in this limited context, or to impose such measures as a condition of streamlined or any section 214 approval.

We noted some additional considerations for the Commission to keep in mind in developing a streamlined approach to deciding section 214 discontinuance petitions. We encouraged the Commission to continue to allow service provided by either the provider seeking discontinuance or another provider to qualify as an adequate substitute service where predetermined criteria are otherwise met. We also urged that, when applying the default, traditional five-factor evaluation, any "increased charges for alternative services" be measured against charges for existing alternative services available in the market, rather than the legacy

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[4] *See BDS FNPRM* at ¶206 and n.656.

[5] Comments of the United States Telecom Association, GN Docket No. 13-5 *et al*., at 12 (filed Oct. 26, 2015).

[6] Comments of the United States Telecom Association, Docket No. 151103999-5999-01, at 7 (filed Feb. 17, 2016)

service being replaced. Finally, we proposed that any new criteria developed for streamlined approval of section 214 applications be required only to accommodate existing customers using the service to be discontinued rather than applied to future customers.

Please do not hesitate to contact the undersigned if you have questions or concerns.

Respectfully submitted,

Diane Griffin Holland
Vice President, Law & Policy

cc: Carol Mattey
Daniel Kahn
Peter Saharko
Brian Hurley