

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Accelerating Wireline Broadband Deployment by) WC Docket No. 17-84
Removing Barriers to Infrastructure Investment)

REPLY COMMENTS OF BT AMERICAS INC.

BT Americas Inc. respectfully submits these reply comments on behalf of itself and all other subsidiaries of BT plc in the United States in response to the Commission's Notice of Proposed Rulemaking, Notice of Inquiry, and Request for Comment in the above referenced proceeding.¹ The Commission's proposals with respect to shortening time frames and streamlining requirements for approval of copper retirement applications and Section 214 petitions would have significant adverse impacts on enterprise consumers and for the reasons stated below, BT Americas advocates not pursuing the proposals discussed herein.

I. The Commission Should Not Reduce the "Deemed Approved" Timeframe for Copper Retirement from 180 to 90 Days Nor Should it Eliminate the Rule Prohibiting Disclosure of Network Changes to Affiliated or Unaffiliated Entities Before Public Notice is Provided

¹ *In the Matter of Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, Notice of Proposed Rulemaking, Notice of Inquiry, and Request for Comment, WC Docket No. 17-84, FCC 17-37 (rel. Apr. 21, 2017) ("Notice" or "NPRM").

The Commission should not diminish the existing consumer protections in the rules governing copper retirement by reducing the 180 day timeframe for approval to 90 days. The retirement of copper in loops, subloops or feeder portions of such loops would affect the provision of Ethernet over Copper (“EoC”) and DSL services by CLECs or other providers to their customers. The investment in equipment by CLECs in central offices that leverage copper lines to the customer premises to deliver EoC and DSL services to customers may be rendered useless by copper retirement. By the time these CLECs digest the impact of retirement notices, react and file their own Section 214 discontinuance petitions, downstream EoC and DSL customers would be left with a wholly insufficient amount of time to react. Wholesale customers would barely have enough time to prepare internal teams, cascade information to enterprise and government customers, trigger discussions with these customers and present them with options before this 90-day clock would run out.

Service migrations for each enterprise circuit would take another 60-90 days beyond this date. Enterprise service migrations are time-consuming because enterprises often provide access to their facilities only after hours or at weekends when the least amount of disruption to their day-to-day operations could occur. By the time parallel new services are installed, tested and cut over, another 60-90 days beyond the proposed 90-day clock for retirement notices could easily elapse. This is why the full 180 day timeframe is needed to retire copper that affects EoC and DSL services provided to enterprise and government customers.

If the original copper retirement notices triggering this migration affect hundreds of EoC and DSL circuits, much more time than 180 days would be needed. Therefore the

Commission should adopt rules that not only maintain the existing 180 day notice requirement, but that allows for extensions depending on how widespread the downstream impacts are of the copper retirement notices.

The FCC should not eliminate differences between copper retirement and other network change notice requirements. As described above, there are significant repercussions that copper retirements would trigger downstream and that need time to cascade through the various strata of carrier and retail customers. It would cause significant disruption to allow copper retirement to proceed on anything less than 180 days of notice. Therefore the Commission should do all it can to promote competition by writing rules that avoid sudden cliff-like transitions and that favor managed, orderly glidepaths towards the IP-based future.

The argument that copper retirement has been happening for a while and hence consumers should be prepared for copper withdrawal to occur in a vastly reduced time frame is a red herring. There are a lot of events that consumers should predict could happen at some point in the future – e.g. like global warming -- but the timing of which is uncertain. Consumers should not be expected to migrate en masse and act precipitously when detailed and specific notice about the where, when and how has not been provided to them. The flow of information about copper retirement has been controlled by the ILECs. It has allowed ILECs to continue to extract monopoly profits from investments made many decades ago right up to the last minute that they are ready to retire copper. Now the Commission proposes to allow ILECs to jockey consumers dependent on copper-based services into migrating in a speeded-up time frame without regard for the business uncertainty, disruption and costs wrought by an accelerated and sudden

retirement of copper. The Commission should not reward attempts to push and stampede customers. It should instead write rules that encourage transparency and orderly, planned transitions away from copper-based services.

The Commission also proposes eliminating rules that currently prohibit ILECs from disclosing any information about planned network changes to affiliated (or unaffiliated) entities prior to providing public notice. It would be premature for the Commission to retire this rule. ILECs are the only entities with low bandwidth facilities serving 86 percent of commercial locations in the United States. If they are permitted to disclose information about network changes such as a retirement of copper affecting low bandwidth services or discontinuance of low bandwidth TDM services to their affiliates serving enterprise customers or to their enterprise customers first, competitors would be at such a huge disadvantage. The ILECs' enterprise and government customers could be protected from service disruption and confusion because they could be allowed a six or twelve month head start to plan and execute migrations before public notice is provided to carrier competitor customers whose own enterprise customers in turn would be herded and jostled into panicked, accelerated migrations away from copper-dependent or TDM-based services because of the shortened timeframes the Commission is proposing. This would be a recipe to kill competition and for this reason alone the Commission should not eliminate Section 51.325(c).

Finally, the Commission should not narrow the pool of recipients that receive direct notices of copper retirement to telephone exchange service providers that directly interconnect with the ILEC's network. The current rule that requires notice to all entities is forward-looking and recognizes that that all manner of entities interconnect today with

carriers. The Commission should not revert to an old rule that is outdated and backward looking.

II. The Commission Should not Streamline Processing of Section 214(a) Applications to Grandfather Services or Grandfathered Services

The Commission proposes to streamline the Section 214(a) discontinuance process for applications to grandfather legacy services. If a provider applies via Section 214(a) to stop accepting new customers for TDM services for example while serving existing customers of TDM services then the Commission proposes that such applications be automatically granted in 25 days. Furthermore, the Commission proposes that the provider need only take account of its own retail end users and not those of its carrier customers. In addition, the Commission asks if it could conclude that discontinuances would not affect the public convenience and necessity as long as fiber, IP-based or wireless services are available.

It would be useful to stop at this point to appreciate the multiplicity of critical uses enabled by TDM services not only among residential customers but enterprise and government customers. Low bandwidth TDM circuits are still used extensively by enterprise customers because they are highly reliable. Pharmaceutical companies use TDM services for their drug interaction hotlines because in a power outage situation these TDM-based voice lines are much more likely to continue to work than VOIP-based technologies. For decades utilities have relied on the dependability of TDM technology to transmit data about failures in the grid, to isolate areas of failure and keep failures from

spreading.² Enterprises still use TDM-based voice services in their call centers and have hundreds of thousands of dollars of TDM-based voice equipment invested in call centers which would have to be swapped out. Many enterprises also still have legacy voice TDM-based PBX systems and other TDM-based equipment which would have to be exchanged before TDM services were withdrawn. TDM lines are used to transmit closed captioning services to local television stations.³ Another feature of TDM technology that is very valuable is “the availability of accurate timing information inherent” in the services which enterprises have utilized in a variety of ways.⁴ At least one European enterprise uses the accuracy of TDM timing as a mechanism to establish the position of aircraft in its air traffic control applications in Europe. It may be the case that there are similar critical applications in use here in the United States.

The discussion above highlights exactly the sort of information that is expected to be teased out via existing rules such as 47 CFR 51.332 requiring consultation about the impacts not only on the withdrawing carrier’s retail users but the retail users of carrier customers. ILECs are not expected to know the uses to which a carrier customer’s retail customers have put the TDM services, but this is exactly why the consultation process and time frames are what they are – to give all stakeholders an opportunity to determine in an informed fashion how to effect the transition in the least adverse manner for all concerned, but within a defined timeframe that balances the interests of parties

² http://www.elp.com/articles/powergrid_international/print/volume-20/issue-7/features/keeping-the-lights-on-in-the-face-of-the-tdm-sunset.html

³ https://ecfsapi.fcc.gov/file/10615190338491/AARP_Final_Comments_WC_17-84_6-15-17.pdf, p14

⁴ <http://www.ciena.com/insights/articles/Why-are-TDM-services-still-around.html>

concerned. This is what the Commission's current rules achieve and for this reason the Commission should not modify these rules.

The Commission also should not reduce the comment and automatic grant period on applications seeking to grandfather services. The streamlining proposals give consumers (including critical infrastructure consumers like utilities) very little time to react and get a filing into the Commission to explain the adverse impacts to the public and to articulate a more reasonable proposal. Nor, based on the preceding discussion about the multiplicity of uses of TDM services by enterprises and government, should the Commission conclude that an application of discontinuance accompanied by proof that fiber, IP-based, or wireless alternatives are available would be in the public interest.

CONCLUSION

For the foregoing reasons, the Commission should retain the existing rules discussed herein on copper retirement and Section 214(a) discontinuance of service.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'SChacko', with a stylized, cursive script.

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