**Before the**

**FEDERAL COMMUNICATIONS COMMISSION**

**Washington, DC 20554**

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| In the Matter of  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 |

**OPPOSITION OF SNOWCREST**

SnowCrest opposes in its entirety the USTA forbearance petition in the above-captioned proceeding and supports INCOMPAS’ Motion for Summary Denial. As INCOMPAS sets forth in its Motion, USTelecom fails to meet the threshold requirements to request forbearance, and it should be denied in its entirety. Nonetheless, to the extent that the Commission considers the merits of the forbearance request, SnowCrest opposes it. The forbearance petition as it is currently submitted would have an extremely negative effect on our customers, our community, and our company if it were granted.

**Company Background**

SnowCrest opened in 1994 in Siskiyou County in far northern California. Siskiyou County is the fifth largest county by geographic size in California at 6,278 square miles, and yet only has a total population of 44,900 people as of the 2010 census, making it an extremely rural county. SnowCrest was the first company to bring Internet access to Siskiyou County, and shortly thereafter we expanded south and became the first Internet Provider in Shasta County.

SnowCrest is small, family-owned and operated business. Our father was the brains behind the creation of our company and network. I left college to run the operations, while my brother worked by my side to program the company’s software. We are locally owned and hire all our employees locally.

Our company grew and transitioned from 9600 baud dial-up modems to 14.4, 28.8, 33.6 and finally 56k. With the advent of ADSL we purchased wholesale DSL from the ILEC, utilizing services sold by the ILEC at non-regulated, commercial wholesale rates. Because the ILEC controlled the cost of the wholesale services, they were able to set the wholesale rates too high for the service to be competitive with their own ADSL services. In 2011, we decided that we needed to provide greater speeds and improve service to our customers. We also needed a better way to access bandwidth. The family decided to invest $600,000, which represented almost all the profit we had gained during the dial-up days, to become a CLEC. SnowCrest receives no support from federal or state universal service funds. Along with becoming a CLEC, we negotiated a deal with Qwest to break out its fiber running through our county. For the first time this gave us pricing competition for our backbone. As a CLEC, we were finally able to sell retail voice and broadband services where both the wholesale price and retail price were not controlled by our competitor because of the regulated rates for UNEs. This allowed us to use DS0s to become the first ISP to sell 24 Mbps Internet service in our county, before the ILEC or the cable company came to market in our area with high-speed broadband.

Currently, SnowCrest offers UNE ADSL2+, VDSL, T1, and voice services in our rural communities. We depend on UNE interoffice dark fiber to connect our network and UNE DS0s to connect our customers. Through the UNE VDSL we offer up to 100 Mbps services even though the ILEC does not. We offer UNE ADSL2+ services in regions where the ILEC and the local cable company do not. In Siskiyou County we offer UNE ADSL2+ service in a radius almost a mile and a half beyond where the ILEC stops. We also sell a maximum 24 Mbps service over UNE ADSL2+, whereas the ILEC maxes at 18. SnowCrest offers unlimited data with no data caps. In contrast, neither the ILEC nor the cable company offers unlimited data and no caps, and the SnowCrest customer service—because it is locally owned and operated—far exceeds either ILEC or cable company. For a rural community with few competitive options we believe we play a vital role in both choice, services, and price.

**Forbearance Effects Will Harm Consumers and the Rural Community We Serve**

There are some possible outcomes from these proceedings, all of which will harm consumers in our rural service territory:

Option 1: The ILEC eliminates UNE services with no replacement services—

This would end our company, causing a great loss to the families that work here, and removing our company as a competitive option for our customers. Parts of our coverage area have no competitive option other than satellite, and none of our customers have another option for unlimited service without data caps. This would also cause us to incur large disconnection fees from the ILEC to remove our equipment from their Central Offices.

Option 2: The ILEC makes the claim that it will move existing UNE services over to commercial analogs—

This is also likely to cause our company to close. The primary services we use, UNE DS0 and Interoffice Dark Fiber, have no commercial analogs. As such, we would not be able to sell ADSL2+ or VDSL over DS0 and our network would no longer be connected because of the loss of Interoffice Dark Fiber.

Option 3: The ILEC keeps all its UNE offerings but raises the prices—

Even though this option may technically allow us to continue business, it would give all the power back to our competitor. The ILEC would once again control the wholesale and competitive retail prices. Given the ILEC’s monopoly position in the marketplace as the only provider of UNE services, unregulated wholesale pricing would enable them to price us out of the market very quickly. Throughout our 24 years as an ISP/CLEC we have experienced this scenario with the ILEC several times before. It is rarely possible to run a business, let alone innovate, in that environment.

**The ILECs arguments in support of forbearance are specious and false.**

Argument 1: Forbearance promotes competition

This argument is false on its face as forbearance will eliminate many CLECs either through the elimination of UNEs or the raising of UNE pricing. CLECs in rural areas will be hit the hardest, because of the increased cost of building out facilities relative to dense urban environments.

Argument 2: Forbearance is good for consumers

This argument is also false. Competition and choice are always good for consumers. As can be seen with our small example, we use the UNE infrastructure (infrastructure we pay for and that the consumer has paid for through USF and rates to ILECs) to offer services that the ILEC does not. We offer UNE services beyond the reach of the ILEC and the cable company, and we offer value by providing unique offerings like unlimited Internet service with no data caps. As a local company with local employees, we are also more responsive to local needs.

Argument 3: Forbearance will create jobs

It seems that the ILECs are arguing that they will create jobs by increasing their market share. What they fail to mention is that this market share will come at the expense of their CLEC competitors. Any additional jobs they create (which is highly doubtful) will be offset by the lost LOCAL jobs from companies like ours.

Argument 4: Forbearance will lower prices

Removing UNE access will remove competition which will remove market pressure to keep prices low. Even if the ILECs move UNEs over to a commercial analog (which currently does not exist for DS0 and Interoffice Dark Fiber) that would have the effect of raising prices on the CLEC. These increases would have to be passed along to the consumer. Instead of lowering prices, forbearance will either cause prices to go up, at best, or cause our company to go out of business, at worst.

**Conclusion**

SnowCrest believes that the public interest is served through the current UNE structure and regulation. The current regulation promotes competition and benefits consumers through increased options, including faster Internet, lower retail pricing, and Internet service that is not capped by data thresholds or restrictions. The petition for forbearance seems to be a petition to increase prices and remove competition from the market. If the ILECs in a rural community still do not offer the same services, speeds, reach, and features when they have competition, what will compel them to improve when they do not?

Accordingly, the Commission should deny the ILEC’s petition to forbear from Sections 251(c)(3) and (4) and related Sections 251 and 252.

Respectfully submitted,

*/s/ Peter and Philip Engdahl*

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