

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

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

**COMMENTS ON BEHALF OF FULL SERVICE NETWORK LP TO THE PETITION
FOR FORBEARANCE OF
USTELECOM — THE BROADBAND ASSOCIATION**

Full Service Network LP ("FSN") respectfully submits these Comments to the Petition for Forbearance ("Petition")¹ filed by the USTelecom—The Broadband Association ("USTelecom") consistent with the Federal Communications Commission's ("FCC" or "Commission") Public Notice issued May 8, 2018, as modified by the Order issued June 1, 2018.² FSN opposes USTelecom's petition regarding Category 1 (Incumbent Local Exchange Carrier ("ILEC") unbundling and resale mandates in sections 251(c)(3) and (4), and associated obligations under sections 251 and 252) and Category 2 (Regional Bell Operating Company ("RBOC") section 272 time interval requirements for nondiscriminatory treatment of affiliates and non-affiliates regarding requests for service, and the long distance separate affiliate requirement for independent ILECs in section 64.1903 of the FCC's regulations). All of the legal protections encompassed in the Category 1 and Category 2 forbearance requests remain necessary to protect consumers and to ensure that customers have a choice of supplier.

¹ *Petition of USTelecom for Forbearance Pursuant to 47 U.S.C. § 160(c) to Accelerate Investment in Broadband and Next-Generation Networks*, WC Docket 18-141 (filed May 4, 2018).

² *Pleading Cycle Established for Comments on USTelecom's Petition for Forbearance from Section 251(c) Unbundling and Resale Requirements and Related Obligations, and Remaining Sections 271 and 272 Requirements*, WC Docket No. 18-141, Public Notice, DA 18-478 (May 8, 2018); Order, DA 18-574 (June 1, 2018).

FSN is a Pennsylvania certificated Competitive Local Exchange Carrier ("CLEC") and an interexchange carrier ("IXC"). FSN has been at the vanguard of telecommunications competition in Pennsylvania for nearly 30 years. FSN was started in 1989 as a long-distance reseller serving business accounts. In 1999, FSN entered the local telecommunications market, taking advantage of the market-opening activities under Federal law in the Telecommunications Act of 1996³ and under Pennsylvania State law in Chapter 30 of the Pennsylvania Public Utility Code.⁴ FSN's business has grown and evolved through the years to include network facilities and to offer additional services, including the full range of telecommunications services that residential and business customers desire (long distance, internet, toll-free service and telephone service). FSN's customers primarily are located in Southwestern Pennsylvania, near FSN's Pittsburgh headquarters.

FSN relies on purchasing wholesale services from ILECs, including Verizon Pennsylvania LLC and Verizon North LLC (collectively "Verizon"), to complement the network facilities that we own. Although Verizon and USTelecom may view this as demonstrating that UNEs and resale are no longer necessary, there is an important connection between wholesale service negotiations and the services and pricing that the ILEC is required to make available under the UNE and resale obligations in section 251(c)(3) and (4). The Commission has recognized that eliminating the obligation to offer UNEs at TELRIC rates will undermine the ILEC's motivation to offer wholesale arrangements at competitive rates.⁵ Eliminating resale requirements under section 251(c)(4) will have similar negative impacts.

The Commission appropriately rejected Qwest Corporation's request for forbearance of the UNE obligations for the Phoenix market because sufficient wholesale alternatives did not exist for carriers in that market that rely on strategies like those used by FSN to offer competitive services in

³*Telecommunications Act of 1996*, Public Law 104-104, 110 Stat. 56 (1996).

⁴ 66 Pa. C.S. §§ 3001-3009 (repealed) & 3011-3019.

⁵ *Petition of Qwest Corporation for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Phoenix, Arizona Metropolitan Statistical Area*, WC Docket No. 09-135, Memorandum Opinion and Order, Para. 36 (June 22, 2010) ("Qwest Arizona Forbearance Request Order").

Pennsylvania. The Commission also has recognized how the negative impact on wholesale customers (e.g., competitive carriers) can produce negative impacts on retail customers. USTelecom's request is much broader (by including both UNEs and resale) and more geographically expansive (covering the entire country). FSN urges the FCC to apply the thorough, granular analysis of the markets and services adopted in the *Qwest Arizona Forbearance Request Order* to the instant request, and to examine each relevant geographic area covered by the Petition. FSN respectfully submits that the ILECs in Pennsylvania will fail to meet the test to warrant forbearance from Category 1.⁶

USTelecom's Category 2 forbearance request raises grave competitive concerns. Without a regulatory requirement to process orders in a non-discriminatory manner, and without public monitoring of processing intervals, RBOCs can discriminate against non-affiliate orders. This will severely undermine competitive carriers like FSN. This request also must be rejected.

For the foregoing reasons, the Petition should be denied

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By 

Pamela C. Polacek (PA ID No. 78276)
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166
Phone: (717) 232-8000
Fax: (717) 237-5300
ppolacek@mcneeslaw.com

Counsel to Full Service Network LP

Dated: August 6, 2018

⁶ Section 10 of the Communications Act establishes that forbearance is warranted if all of the following are established: (1) enforcement of the regulation or requirement is not necessary to ensure that charges, practices, classifications, or regulations are just and reasonable, and are not unjustly or unreasonably discriminatory; (2) enforcement is not necessary to protect consumers; and (3) forbearance is consistent with the public interest. *Qwest Arizona Forbearance Request Order*, para. 14.